

**1957  
REGULAR  
SESSION  
LAWS**

**LAWS**  
OF THE  
**TERRITORY OF HAWAII**  
PASSED BY THE  
**TWENTY-NINTH LEGISLATURE**

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**REGULAR SESSION**  
**1957**

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Convened on Wednesday, the Twentieth Day of February, and  
Adjourned Sine Die on Tuesday, the Seventh Day of May

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Published by Authority under the  
Direction of the Secretary of Hawaii  
Honolulu, Hawaii

Compiled and Indexed by Samuel P. King  
And Linda L. Williams

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1959

## FOREWORD

**§§ 1-2 and 1-3, REVISED LAWS OF HAWAII 1955, PROVIDE AS FOLLOWS:**

**"§ 1-2. Publishing of session laws.** As soon as possible after the close of each session of the legislature, the Secretary of the Territory or any other officer or employee of the Territory designated by the governor shall cause all laws duly enacted at such session to be printed, indexed and bound in book form, first the bills and then joint resolutions, in the order of their becoming law.

**"§ 1-3. Certain laws not obligatory until published.** No written law, unless otherwise specifically provided by legislative enactment, except general or special appropriation acts, loan fund acts, pension acts and franchise acts, shall be obligatory without first being printed and made public. General or special appropriation acts, loan fund acts, pension acts and franchise acts whether affecting territorial funds or the funds of county or other municipal subdivisions or commissions, shall become operative according to their respective terms merely by being passed and approved in the manner provided by sections 44 to 54, inclusive, of the Organic Act without the necessity of any other promulgation than the ultimate inclusion thereof in the bound volume of respective session laws as provided in section 69 of the Organic Act."

# C E R T I F I C A T E

## TERRITORY OF HAWAII

Office of the Secretary

I, Edward E. Johnston, Secretary of the Territory of Hawaii, do hereby certify that the printed Acts and Joint Resolutions set forth herein are true and correct copies of the original Acts and Resolutions enacted by the Twenty-ninth Legislature of the Territory of Hawaii at its regular session of 1957, which was convened in Honolulu on Wednesday, the twentieth day of February, 1957, and adjourned sine die on Tuesday, the seventh day of May, 1957; that all such Acts and Resolutions, except as otherwise specifically noted, were approved by the Governor of Hawaii in accordance with the provisions of the Organic Act.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the Great Seal of the Territory of Hawaii on the 27th day of January, 1959.



*Edward E. Johnston*  
Secretary of Hawaii



# CHIEF EXECUTIVE AND OFFICERS AND MEMBERS OF THE TWENTY-NINTH LEGISLATURE OF THE TERRITORY OF HAWAII

## REGULAR SESSION OF 1957

Governor of Hawaii.....King, Samuel Wilder

### SENATE

President.....Heen, William H.  
Vice-President.....Duponte, Dee  
Clerk.....Richardson, William S.

District	Name	Address
First.....	Abe, Kazuhisa (D).....	494 Kalanikoa St., Hilo, Hawaii
	*Doi, Nelson K. (D).....	P. O. Box 1393, Hilo, Hawaii
	*Hill, William H. (R).....	Hilo, Hawaii
	Okino, Tom (D).....	P. O. Box 343, Hilo, Hawaii
Second.....	Duarte, John Gomes (D).....	P. O. Box 442, Wailuku, Maui
	*Duponte, Dee (D).....	Wailuku, Maui
	Fukuoka, S. George (D).....	Wailuku, Maui
Third.....	*Heen, William H. (D).....	1585 Thurston Avenue, Honolulu, Hawaii
	Kido, Mitsuyuki (D).....	2041 Keeaumoku Street, Honolulu, Hawaii
	Lee, Herbert K. H. (D).....	502 Professional Center, 1481 S. King Street, Honolulu, Hawaii
	Long, Oren E. (D).....	2054 Makiki Street, Honolulu, Hawaii
	*Takahashi, Sakae (D).....	2502-B Waolani Avenue, Honolulu, Hawaii
	*Tsukiyama, Wilfred C. (R).....	89 S. King Street, Honolulu, Hawaii
Fourth.....	*Fernandes, John B. (D).....	Kapaa, Kauai
	Miyake, Noboru (R).....	Waimea, Kauai

\*Holdovers ..... 7  
D—Democrat .....12  
R—Republican ..... '

# OFFICERS AND MEMBERS OF THE LEGISLATURE

## HOUSE OF REPRESENTATIVES

Speaker.....	Esposito, O. Vincent
Vice-Speaker.....	Kobayashi, Raymond M.
Clerk.....	Lum, Herman T. F.

District	Name	Address
First.....	Austin, Stafford L. (R).....	P. O. Box 455, Hilo, Hawaii
	Hara, Stanley I. (D).....	335 Keawe St., Hilo, Hawaii
	Kobayashi, Raymond M. (D).....	P. O. Box 694, Hilo, Hawaii
	Olds, Mark Norman (D).....	21 Professional Bldg., Hilo, Hawaii
Second.....	Kinney, Bernard G. (R).....	P. O. Box 81, Kamuela, Hawaii
	Nakashima, Sumio (D).....	P. O. Box 133, Kealahakua, Hawaii
	Pule, Akoni (D).....	P. O. Box 265, Halaula, Kohala, Hawaii
	Toguchi, Thomas T. (R).....	Naalehu, Kau, Hawaii
Third .....	Adams, Ray F. (D).....	P. O. Box 442, Wailuku, Maui
	Calmes, Marquis F. (R).....	Kahului, Maui
	Cravalho, Elmer F. (D).....	RR 66D, Waiakoa, Kula, Maui
	Lydgate, E. P. (R).....	Paia, Maui
	Tokunaga, Barney H. (R).....	c/o Bishop National Bank, Kahului, Maui
Fourth.....	Yoshinaga, Nadao (D).....	1950 Vineyard Street, Wailuku, Maui
	Edwards, Webley (R).....	4523 Aukai Avenue, Honolulu, Hawaii
	Inouye, Dan K. (D).....	2332 Coyne St., Honolulu
	Kahanamoku, Anna Furtado (D).....	3820 Monterey Dr., Honolulu
	Matsunaga, Spark M. (D).....	1320-A 7th Avenue, Honolulu
	Porteus, Hellden (R).....	2160 Manoa Road, Honolulu
	Russell, J. Ward (R).....	c/o Hawaiian Telephone Co., P. O. Box 2200, Honolulu, Hawaii
Fifth.....	Ariyoshi, George R. (D).....	1714 Colburn St., Honolulu
	Esposito, O. Vincent (D).....	134 Merchant St., Honolulu
	Fukushima, Yasutaka (R).....	263 Walker Ave., Wahiawa, Oahu
	Mink, Patsy Takemoto (D).....	12 N. King St., Honolulu
	Minn, Philip (D).....	100 Jaluit St., Honolulu
	Noda, Steere G. (D).....	P. O. Box 712, Honolulu
Sixth.....	Arashiro, Mutt (D).....	P. O. Box 3, Kalaheo, Kauai
	Bertrand, Jack (R).....	P. O. Box 1789, Lihue, Kauai
	Henriques, Manuel Souza (D).....	Kapaa, Kauai
	Yoshida, Yoshiichi (R).....	P. O. Box 527, Kapaa, Kauai

D—Democrat .....	18
R—Republican .....	12

1957

BILL NUMBERS TO ACT NUMBERS

S.B.	Act	S.B.	Act	S.B.	Act	S.B.	Act	S.B.	Act
8	35	291	307	577	289	703	193	806	277
9	33	298	58	580	185	704	320	811	167
11	2	333	34	587	176	708	22	816	55
12	1	337	158	588	161	709	311	823	210
15	23	340	184	598	100	713	96	833	292
17	256	362	288	601	290	731	291	840	91
52	7	365	59	608	322	738	97	841	317
63	164	369	90	609	315	741	126	847	259
64	116	371	60	619	86	747	127	850	194
65	85	377	16	623	118	750	166	851	195
83	89	384	117	624	208	753	121	855	159
127	162	414	149	625	177	755	299	861	278
129	318	417	49	626	119	759	239	883	321
134	124	419	314	627	186	766	240	892	312
136	235	436	94	628	237	767	209	897	253
138	191	470	53	630	120	768	178	910	279
140	257	471	165	635	98	772	276	912	179
148	141	472	173	638	309	773	286	919	70
159	51	473	308	651	272	779	150	933	287
164	156	475	174	659	273	781	241	934	260
170	56	476	192	668	187	786	122	950	254
171	30	490	271	671	306	788	128	955	280
184	157	498	125	676	298	790	67	957	71
202	57	506	236	681	238	791	68	963	281
210	313	525	66	682	310	793	242	965	142
234	3	550	95	690	13	794	129		
245	258	553	175	696	274	795	300		
255	47	560	99	697	275	799	69		
285	160	566	65	701	73	801	316		
								Total:	141

1957

BILL NUMBERS TO ACT NUMBERS

H.B.	Act	H.B.	Act	H.B.	Act	H.B.	Act	H.B.	Act
1	147	340	39	555	31	770	83	1000	247
3	234	344	169	558	32	777	262	1004	93
14	255	345	201	564	87	779	263	1025	296
18	74	352	202	577	214	780	265	1032	144
21	24	353	72	579	79	782	264	1050	154
27	4	354	8	586	215	802	183	1066	230
28	17	355	6	592	80	811	231	1071	131
29	18	357	54	613	9	812	232	1076	207
32	5	366	110	616	14	816	171	1084	319
34	19	383	293	617	294	820	106	1085	145
40	20	398	52	625	216	821	266	1105	75
41	36	414	76	631	217	822	267	1119	84
43	25	423	305	644	81	824	28	1129	270
44	26	424	77	669	203	827	244	1136	45
45	37	434	133	670	221	828	245	1138	62
46	27	435	134	672	222	844	10	1143	248
47	40	436	78	675	223	867	301	1149	63
49	196	440	139	681	182	873	302	1154	220
52	180	457	104	688	224	888	42	1157	249
57	181	466	211	690	225	893	205	1165	163
95	197	471	103	693	226	899	113	1166	64
97	123	477	233	701	227	902	43	1167	155
105	198	490	50	702	170	905	246	1172	304
106	206	492	261	706	282	906	130	1182	250
107	107	503	41	707	243	917	303	1194	190
113	11	504	212	716	283	946	135	1212	251
130	199	509	29	726	88	959	268	1213	285
133	44	512	21	738	228	962	219	1214	252
139	151	529	213	742	218	964	114	1215	148
156	200	531	111	745	46	975	136	1218	132
192	168	532	140	749	82	976	297	1219	172
193	101	533	153	758	189	981	269	1229	146
216	108	540	12	759	229	982	115	1239	138
248	105	545	48	761	204	985	15		
257	102	547	112	763	284	987	38		
312	152	548	188	765	143	995	295		
334	109	551	61	766	92	999	137		
								Total:	181

1957

SENATE AND HOUSE JOINT RESOLUTION NUMBERS TO  
JOINT RESOLUTION NUMBERS

S.J.R.	J.R.	H.J.R.	J.R.
21	14	2	37
22	28	3	5
25	46	5	3
26	44	9	16
32	34	11	43
41	9	13	21
44	47	15	1
45	2	18	25
51	29	32	35
53	17	33	30
55	40	35	10
68	15	37	27
78	42	40	11
84	31	48	12
89	48	50	39
90	45	54	8
91	18	56	4
92	49	57	32
		60	6
		65	20
		69	36
		71	22
		72	33
		81	13
		85	41
		90	23
		91	24
		92	19
		95	7
		97	26
		103	38
Total: 18		Total: 31	

# TABLES SHOWING EFFECTS OF ACTS AND JOINT RESOLUTIONS TWENTY-NINTH LEGISLATURE Territory of Hawaii

## Key Abbreviations

Am—Amended

R—Repealed

Ad—New Section

(SS)—Special Session

JR —Joint Resolution

## A. SECTIONS OF REVISED LAWS OF HAWAII 1955 AFFECTED

R. L. 1955 Sections	Effect	Act No.	R. L. 1955 Sections	Effect	Act No.
1-47	Am	152	6-83	Am	143
2-20	Am	1	6-83.01	Ad	143
2-21	Ad	1	6-90	Am	231
3-4	Am	75	6-135	Am	66
3-8	Ad	11	6-190	Am	284
3-13	Am	252	6-191	Am	284
3-18	Am	207	6-191.5	Ad	284
3-19	Am	157, 206	6-192	Am	284
3-20	Am	110, 156, 207	6-195	Am	284
3-21	Am	47, 51, 198, 254	6-195.5	Ad	284
3-23	Am	107	6-198	Am	284
3-25	Am	65, 207	7-8	Am	46, 152
3-28	Am	152	7-25.5	Ad	114
3-51	Am	156, 207	7-43	R	12
3-61	Am	42, 156, 207	7-44	R	12
3-84	Ad	200	8-51	Am	160
4-10	Am	148	9-7	Am	152
4-11.5	Ad	JR 7, 1(SS)	9-36	Am	152
4-33	Ad	141	9A-2	Am	93
4A-1	Am	152, 170	10-3	R	208
5-5	Am	152	11-47	Am	168
5-6	Am	152	11-47.5	Ad	168
5-13	Am	180	11-130	Am	242
5-14	Am	152	11-198	Ad	168
5-16	Am	152	12-6	Am	152
5-19	Ad	170	12-7 to 10	Am	182
5-20	Ad	170	12-11 to 13	Ad	182
5-30	Am	56, 199	14-5	Am	29
5-38	Am	211	14-6	Am	152
5-39	Am	199	14-8	Am	169
5-56	Am	152	18-14	R	50
5-70.5	Ad	30	19-5	Am	234
5-71.5	Am	271	19-26	Am	152
5-106	Am	152	19-51	Am	98
5-127	Am	152	19-53	Am	98
6-3	Am	152	19-54	Am	98
6-20	Am	43, 143, 231	19-70 to 72	Ad	234
6-22	Am	143	20-20	Am	152
6-23	Am	143	20-22.8	Am	152
6-36.5	Ad	200	20-24	Am	152
6-41	Am	24, 231	20-94	Ad	298
6-42	Am	143, 231	21-3.5	Ad	41
6-42.01	Ad	143	21-6	Am	162
6-43	Am	143	21-68	Am	230
6-45	Am	143, 231	21-158	Am	171
6-47	Am	143	22-90 to 91	Am	172
6-59	Am	152	22-92	Ad	172
6-82	Am	231	22-93 to 95	Am	172

R. L. 1955 Sections	Effect	Act No.	R. L. 1955 Sections	Effect	Act No.
22-96	Ad	172	60-2	Am	316
27A-1 to 5	Ad	319	60-10.1	Am	316
28-3	Am	52	62B-1 to 12	Ad	153
28A-1.5	Ad	23	63-17	Am	152
28A-2	Am	23	64-3	Am	219
28A-3	Am	23, 152	64-5	Am	316
28A-5 to 8	Am	23	64-14	Ad	309
29-24	Am	152	66-2	Am	316
30-10	Am	180	66-8	Am	316
31-3	Am	170	68-9	Am	119
32-7	Am	238	69-12	Am	152
32-11	Am	238	70-1	Am	130
32-12	Am	238	70-5	Am	152
34-1 to 22	Am	152	70-9	Am	130
34-26 to 30	Am	152	71-3	Am	152
34-31	Am	44, 152	71-6	Am	316
34-32 to 40	Am	152	71-8	Am	316
34-42	Am	152	72-1	Am	316
34-45	Am	152	72-2	Am	316
34-46	Am	152	72-4	Am	316
34-48 to 55	Am	152	73-12	Am	152
35-8	Am	152	80-2	Am	299
35-14.5 to 14.8	Ad	320	80-5	Am	299
36-1	Am	152	80-7 to 9	Am	299
36-2	Am	152	80-11 to 18	Am	299
36-5 to 7	Am	152	80-22	Am	152
36-14	Am	152	80-23 to 33	Am	299
37-2 to 4	Am	16	81-47	Ad	JR 31
38-31	Am	148	83-64 to 66	Am	308
38-37	Am	199	83-68	Am	308
38-37.5	Am	126	83-75	Ad	236
44-1.5	Ad	144	86-1 to 3	Am	22
44-2	Am	89	86-4.5	Am	22
44-3	Am	144	86-7	Am	109
44-12	Am	212	86-21	Am	109
44-13	Am	212	86-22	Am	109
44-14	R	212	86-23	Ad	22, 109
44-15	Am	212	87-1	Am	22
44-15.5	Ad	212	87-5	Am	22, 152
44-16	R	212	87-9	Am	152
44-23	Ad	253	87A-1 to 11	Ad	22
44-44 to 46	Ad	283	88-6	Am	135
44-47 to 47.3	Ad	35	88-18	Am	135
44-64	Am	32	93-1	Am	115, 205
44-70	Am	152	93-11	Am	205
46-13	Am	153	93-29	Am	74
46-15.1	Ad	316	93-60	Am	115
46-15.2	Ad	316	93-64	Am	205
46-25.1	Am	54	93-65	Am	145
46-44	Am	152	93-69	Am	115
47-70 to 79	Ad	60	93-70	Am	115, 185
48-1	Am	59	93-72	Am	205
48-3	R	59	93-76	Am	74
48A-1 to 16	Ad	59	93-93	Am	205
48A-4	Am	152	93-103	Am	205
48A-8	Am	152	93-120	Am	145
50-24	Am	10	93-122	Am	145, 152
50-25	Am	57	93-124	Am	145, 152, 205
50-41	Ad	106	93-125	Am	205
50A-1 to 5	Ad	90	93A-1 to 39	Ad	74
51-9	Am	140	94-2 to 4	Am	256
51-13.5	Ad	140	95-1	Am	137
57-17	Am	202, 316	95-3	Am	137
57-22	Am	8	95-4	Am	137
59-10	Am	152	97-21	Am	214

R. L. 1955 Sections	Effect	Act No.	R. L. 1955 Sections	Effect	Act No.
97-23	Am	80	117-17.1	Ad	34
97-24	Am	215	117-19	Am	34
97-25	Am	214, 215	117-20	Am	1 (SS)
97-26	Am	78, 133, 214, 215	117-21	Am	34
97-26.7	Ad	134	117-21.5	Am	34
97-27	Am	55	117-24	Am	34
97-28	Am	216	117-25	Am	34
97-30	Am	81	117-28	Am	34
97-52	Am	133	117-32	Am	34, 152
97-69	Am	214	117-35	Am	1 (SS)
97-80	Am	133	117-37	Am	1 (SS)
97-92	Am	134	117-38	R	185
98C-1 to 11	Ad	161	117-39	R	185
98F-1 to 7	Ad	150	118-2	Am	1 (SS)
99-18	Am	316	118-7	Am	1 (SS)
99-40	Am	JR 37	119-2	Am	34
99-49	Am	JR 37	119-4	Am	1 (SS)
99-51	Am	JR 41	119-7	Am	34
99-53	Am	JR 6, 37	119-13	Am	1 (SS)
99-78	Am	JR 41	119-17	R	185
99-92	Am	JR 28	120-1 to 3	R	1 (SS)
99-99	Ad	39	120-4	Am	34
99A-1 to 16	Ad	255	120-4	R	1 (SS)
99D-1 to 7	Ad	JR 45	120-5	R	1 (SS)
102-11	Am	113	120-6	R	1 (SS)
104-1	Am	151	120-7	Am	185
107-7	Am	53	120-7	R	1 (SS)
108-20	Am	174	120-7.1	Ad	34
108-34	Am	142	120-7.1	R	1 (SS)
108-36	Am	87	120-8 to 16	R	1 (SS)
109-1	Am	317	120-17	R	185, 1 (SS)
109-1.5	Ad	317	120-18	R	1 (SS)
109-1.6	Ad	317	120-19	Am	34
109-9	Am	91	120-19	R	1 (SS)
109-9.5	Ad	122	120-20	R	1 (SS)
112-1	Am	JR 8	121	Am	185
112-40	Am	158	121-1 to 6	Am	1 (SS)
112-41	Am	158	121-7	Am	34, 1 (SS)
112-42	R	158	121-8	Am	1 (SS)
112-43 to 46	Am	158	121-9	Am	1 (SS)
112-60 to 65	R	184	121-10	Am	34, 1 (SS)
115-1	Am	152	121-11	Am	1 (SS)
115-27	Am	152	121-12	Am	1 (SS)
115-28	Am	152	121-13	Am	34, 1 (SS)
115-34	Am	185	121-14 to 24	Am	1 (SS)
115-37.5	Ad	185	121-25	Am	34, 1 (SS)
116-2.1	Ad	1 (SS)	121-26 to 38	Am	1 (SS)
116-3	Am	1 (SS)	121-39	R	185
116-4	Am	1 (SS)	121-39	Am	1 (SS)
116-10	Am	1 (SS)	121-40	Am	1 (SS)
116-19	Am	34	121-41 to 53	Ad	1 (SS)
116-20	Am	34	122-3 to 5	Am	1 (SS)
117-1	Am	34	122-17	Am	1 (SS)
117-3	Am	1 (SS)	123-1	Am	217, 322
117-4	R	1 (SS)	123-2.5	Ad	322
117-5	Am	34	123-3	Am	217
117-6	Am	34	123-3.2	Am	250, 276
117-10	Am	34, 1 (SS)	123-7	Am	322
117-11	Am	1 (SS)	124-2	Am	1 (SS)
117-12	Am	34	124-4	Am	1 (SS)
117-14	Am	34, 1 (SS)	124-8	Am	1 (SS)
117-14.1	Ad	34	124-12	Am	1 (SS)
117-14.5	Am	1 (SS)	125-1	Am	34
117-14.6	Ad	1 (SS)	125-2	Am	1 (SS)
117-16	Am	34, 1 (SS)	125-3	Am	34, 1 (SS)



R. L. 1955 Sections	Effect	Act No.	R. L. 1955 Sections	Effect	Act No.
125-7	Am	1 (SS)	148-2	Am	68
125-10	Am	1 (SS)	148-33	Am	42
126-1	Am	1 (SS)	148-67	Am	67
126-2	Am	1 (SS)	149-5	Am	280
126-4	Am	34	149-7	Am	76
126-5	Am	1 (SS)	149-20	Am	233
127-1 to 7	Am	1 (SS)	149-22	Am	193
127-8 to 23	R	1 (SS)	149-54	Am	170
127A-1	Ad	241	149-55	Am	170
128-2	Am	1 (SS)	149-76 to 78	Am	279
128-8	Am	1 (SS)	149-81	Am	279
128-9	Am	1 (SS)	149-83	Am	279
128-9.1	Ad	1 (SS)	149-85	Am	279
128-10	Am	1 (SS)	149-86	Am	71, 84, 285
128-21	R	234	149-98	Ad	129
128-23	Am	1 (SS)	149-113	Ad	233
128-35	Am	1 (SS)	149-120	Am	62
129-2	Am	1 (SS)	149-129.1	Ad	63
129-3 to 5	R	1 (SS)	149-180	Am	61, 260
129-5.1	Ad	1 (SS)	149-181	Am	249
129-6	Am	1 (SS)	149-184	Am	234
129-7	R	1 (SS)	149-187	Am	240
129-8	Am	1 (SS)	149-197	Am	73
129-9	Am	1 (SS)	149A-3	Am	277
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129-11	Am	217	149A-6	Am	277
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**1957**  
**Laws Of The Territory Of Hawaii**  
**Passed By The**  
**Twenty-Ninth Legislature**  
**Regular Session**

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**ACT 1**

An Act Appropriating Money for the Expenses of the Twenty-Ninth Legislature of the Territory of Hawaii, for the Payment of Allowances for Personal Expenses of the Members of the Legislature while Attending any Session of the Legislature, for Compensating Certain Members-Elect Thereof for Pre-session Travel and Subsistence, for the Expenses of any Holdover Committee or Committees of the Legislature for the Period Herein Specified, Amending Act 86 of the Session Laws of Hawaii 1945, as Amended, and Removing any Limitations Imposed by Section 455 of the Revised Laws of Hawaii 1945, as Amended, or any Other General Statute.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby appropriated from the general funds of the Territory the sum of two hundred seventy-five thousand dollars (\$275,000) or so much thereof as may be necessary, for defraying the expenses of the Senate of the Twenty-Ninth Legislature of the Territory of Hawaii, up to and including November 3, 1958, and for paying to members-elect of the Senate who were members-designate of the Committee-designate on Ways and Means who attended meetings of said Committee in Honolulu in connection with pre-session hearings on and study of the revenues and budget of the Territory for the biennium 1957-1959, for (a) travel expenses paid by them in order to attend and return from said meetings, and (b) subsistence on a per diem basis at the rate of twenty dollars (\$20) per day for members whose legal residences were on the island of Oahu and of thirty dollars (\$30) per day for members whose legal residences were on any of the other islands of the Territory, for each day or portion of a day spent in attendance at said meetings.

SECTION 2. Any unencumbered balance of the appropriation provided for in section 1 remaining at the close of the regular session of 1957 is hereby appropriated for defraying the expenses of any holdover committee or committees established by the Senate.

SECTION 3. There is hereby appropriated from the general funds of the Territory the sum of three hundred forty thousand dollars (\$340,000) or so much thereof as may be necessary, for defraying the expenses of the House of Representatives of the Twenty-Ninth Legislature of the Territory of Hawaii, up to and including November 3, 1958, and for paying to members-elect of the House of Representatives who were members-designate of the Committee-designate on Finance and who attended meetings of said Committee in Honolulu in connection with pre-session hearings on and study of the revenues and budget of the Territory for the biennium 1957-1959, for (a) travel expenses paid by them in order to attend and return from said meetings, and (b) subsistence on a per diem basis at the rate of twenty dollars (\$20) per day for members whose legal residences were on the island of Oahu and of thirty dollars (\$30) per day for members whose legal residences were on any of the other islands of the Territory, for each day or portion of a day spent in attendance of [at] said meetings.

SECTION 4. Any unencumbered balance of the appropriation provided for in section 3 remaining at the close of the regular session 1957 is hereby appropriated for defraying the expenses of any holdover committee or committees established by the House.

SECTION 5. Act 86, Session Laws of Hawaii 1945, as amended, is hereby further amended by amending the first clause thereof, up to and including the semi-colon, to read as follows:

“Members of the Legislature of the Territory other than members whose legal residences are on the island of Oahu, while attending any session of the Legislature, shall be allowed thirty dollars (\$30) per day, which amount is to cover all personal expenses, such as board, lodging, and incidental expenses, but not travel expenses, and the members of the Legislature of the Territory whose legal residences are on the island of Oahu, while attending any session of the Legislature shall be allowed twenty dollars (\$20) per day, which amount is to cover incidental expenses;”.

SECTION 6. The allowance payable under said Act 86, as hereby amended, shall be calculated retroactively and shall be payable from February 20, 1957.

SECTION 7. The auditor of the Territory shall, prior to the convening of the Thirtieth Legislature, audit the accounts of the Senate and the House of Representatives of the sessions of the Twenty-Ninth Legislature of the Territory. Immediately upon the completion of the audit, a full report thereon shall be presented to the Senate and to the House of Representatives of the Thirtieth Legislature of the Territory of Hawaii.

SECTION 8. The expenses of any member of the Legislature while traveling abroad on official business of the Legislature, shall not be limited by the provisions of Section 455 of the Revised Laws of Hawaii 1945 as amended, or any other general statute. The expenses of such member shall be such as may be allowed by the Senate or by the House



of Representatives, respectively, as to members of said Senate or of said House of Representatives.

SECTION 9. Each section of this Act is hereby declared to be severable from the remainder of this Act.

SECTION 10. This Act shall take effect upon its approval.

(Approved March 6, 1957.) **S.B. 12, Act 1.**

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## ACT 2

An Act to Enact the Revised Laws of Hawaii 1955; Declaring the Effect Thereof; Authorizing the Printing, Binding, and Distribution in Whole and in Parts Thereof; Continuing the Compilation Commission and Defining Its Duties and Powers with Respect Thereto; and Making an Appropriation for the Printing, Binding, and Delivery Thereof and Additional Compensation for Members of the Compilation Commission.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Enactment of Revised Laws.** Chapters 1 to 361 inclusive, and each section thereof, and the revision of sections 1 to 5 of Act 253 of the Session Laws of Hawaii 1939 set forth in the note to section 152-23 on pages 1264 and 1265, of the mimeographed two-volume manuscript designated as "Revised Laws of Hawaii 1955 (including Session Laws of 1955 and Special Session Laws of 1956) as prepared by the Compilation Commission for submission to the Twenty-Ninth Legislature of the Territory of Hawaii" prepared by the commission appointed under the provisions of Act 179 of the Session Laws of Hawaii 1953, and submitted in accordance with section 12 thereof, are hereby enacted as law and designated as "Revised Laws of Hawaii 1955".

SECTION 2. **Repeal of prior laws; what not repealed.** All statutes in force immediately prior to the approval of this Act, which are embraced, with or without change, in the Revised Laws of Hawaii 1955 are hereby repealed, and so much of the Revised Laws of Hawaii 1955 as is applicable or corresponds thereto shall be in force in lieu thereof; provided that said repeal shall not apply to or affect the following, except to the extent that the same heretofore have been superseded or repealed, to wit:

(a) Any provision which is not subject to repeal, or as to which the applicable or corresponding provisions of the Revised Laws of Hawaii 1955 could not be enacted by the legislature without the approval of Congress.

(b) Any statute or part thereof of which no part is embraced in the Revised Laws of Hawaii 1955.

(c) Any statute referred to in the notes on sewer works and water works appended to sections 149-86 152-1 and 152-2, except Act 96 of the Session Laws of 1929 and Act 222 of the Session Laws of 1927, embraced in chapter 152.

(d) Any statute referred to in the notes in the Appendix to the

Revised Laws of Hawaii 1955, whether or not a part thereof has been embraced in the Revised Laws of Hawaii 1955.

(e) Any appropriation act, loan fund act, special pension act, or franchise act, or any provision of like nature in any other act whether or not a part thereof has been embraced in the Revised Laws of Hawaii 1955.

(f) Any provision of a temporary nature the functions of which have been fulfilled.

(g) Any provision in the nature of a saving clause or short title, or any provision relating to constitutionality, legislative findings or intent, interpretation, or the repeal of laws.

(h) Any provision as to the time at which or manner in which provisions embraced in the Revised Laws of Hawaii 1955 were or are to take effect or apply, or other transition provisions.

(i) Any provision as to the effect of noncompliance of any territorial law or part thereof with any federal law, or as to the effect of failure to secure a certificate or approval of any federal officer or other federal agency, and notwithstanding the enactment of the Revised Laws of Hawaii 1955 such noncompliance, or the failure to secure such certificate or approval, shall have the same effect as if the Revised Laws of Hawaii 1955 had not been enacted.

**SECTION 3. Preservation of rights and liabilities.** Said repeal shall not affect any act done, ratified or confirmed or any right accruing or accrued or established, or any action, suit or proceeding had or commenced in any civil cause, prior to said repeal, but all rights and liabilities under any statute embraced in the Revised Laws of Hawaii 1955 or so repealed shall continue, and may be enforced in the same manner and with the same effect as if said repeal had not been made; nor shall said repeal in any manner affect the right to any office or change the term or tenure thereof.

**SECTION 4. Preservation of penalties for offenses, etc.** Said repeal shall not affect any offense committed or any punishment, penalty or forfeiture incurred, prior to said repeal, under any statute embraced in the Revised Laws of Hawaii 1955 or so repealed, but every such offense may be prosecuted and punished, and every punishment, penalty or forfeiture imposed and enforced, in the same manner and with the same effect as if said repeal had not been made.

**SECTION 5. Preservation of statutes of limitation.** No statute of limitations, whether applicable to civil causes or proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, embraced in the Revised Laws of Hawaii 1955, or so repealed, shall be affected thereby, but all suits, proceedings and prosecutions, whether civil or criminal, for causes arising or acts done or committed prior to said repeal may be commenced and prosecuted with the same effect as if said repeal had not been made.

**SECTION 6. Construction of Revised Laws.** Provisions in the Revised Laws of Hawaii 1955 shall be construed as continuations or amendments of applicable or corresponding provisions of previously existing laws and not as new enactments. In case of a conflict between

two or more provisions, or in any case of a latent or patent ambiguity or obvious clerical error in any provision of the Revised Laws of Hawaii 1955, reference may be had to the previously existing laws for the purpose of applying the rules of construction relating to repeal by implication or for the purpose of resolving the ambiguity or correcting the error.

**SECTION 7. Statutory references in existing laws.** References in statutes not repealed to provisions which are embraced, with or without change, in the Revised Laws of Hawaii 1955, shall be construed as applying to such provisions in the Revised Laws of Hawaii 1955. The references to sections of the Revised Laws of Hawaii 1955 incorporated in brackets, or without brackets, in the notes in the appendix of the Revised Laws of Hawaii 1955 are hereby approved.

**SECTION 8. Appendix of Revised Laws.** The notes in the appendix of the Revised Laws of Hawaii 1955 shall constitute prima facie evidence of the statutes, or portions thereof, therein contained, as amended prior to this session of the legislature, but shall not preclude reference to, or control in case of any difference, the force or effect of any original act as passed by the legislature or any previous duly enacted revision. Such notes may be cited by note number or by page number.

**SECTION 9. Effect of acts.** The enactment by section 1 of this Act of the Revised Laws of Hawaii 1955 shall not affect or repeal any act passed at this session of the legislature prior to the date of the taking effect of this Act, but all acts so passed shall have full effect as if passed after such date, and so far as such acts vary from or conflict with any provision contained in the Revised Laws of Hawaii 1955, they shall have the effect of subsequent acts, and as repealing any portions of the Revised Laws of Hawaii 1955 inconsistent therewith. Any act which is passed at this session of the legislature, or any session of the legislature held before delivery is made to the secretary of Hawaii [of] the printed three-volume edition of the Revised Laws of Hawaii 1955, for which provision is made in the next section, and which amends the Revised Laws of Hawaii 1955 by reference to the pages of the Revised Laws of Hawaii 1955, or the parts, sections, paragraphs, sentences or lines thereof, where the matter amended is set out, shall refer to the mimeographed two-volume manuscript of the Revised Laws of Hawaii 1955 as submitted by the compilation commission to the Twenty-Ninth Legislature. Any act which is passed at any session of the legislature held after such printed three-volume edition of the Revised Laws of Hawaii 1955 is delivered to the secretary and which amends the Revised Laws of Hawaii 1955 by like reference shall refer to such printed three-volume edition of the Revised Laws of Hawaii 1955.

**SECTION 10. Printing, Binding and Distribution.** The Revised Laws of Hawaii 1955, together with prefix, annotation, footnotes, appendices, tables and indices, shall be printed and bound in a set of three volumes. In printing the Revised Laws of Hawaii 1955, marginal line numbers in the mimeographed manuscript and any matter appearing therein in strike-out type shall not be printed and underscored matter appearing therein shall be printed without the underscoring. The secre-

tary of the Territory shall cause three thousand five hundred sets thereof to be printed and bound, which when so printed and bound may be furnished by him free of charge to government officials for official use and may be sold by him to other persons at \$35.00 per set for the benefit of the Territory. The secretary may also cause to be printed in pamphlet form, such chapters or portions of the Revised Laws of Hawaii 1955 as may be required for use or distribution by any department or agency of the Territory or political subdivision thereof. The secretary shall determine the quantity of such pamphlets to be printed and may determine the price to be recovered for the benefit of the Territory in case of the distribution of such pamphlets to private persons. Any provision of law to the contrary notwithstanding, the composing, printing and binding of the Revised Laws of Hawaii 1955 or any part thereof, may be done outside of the Territory if the lowest price at which such work can be procured in the Territory exceeds by more than twenty-five per cent the lowest price at which such work can be procured outside of the Territory plus the cost of transportation to Honolulu.

**SECTION 11. Continuance of Compilation Commission and Certification.** The compilation commission appointed under the provisions of Act 179 of the Session Laws of Hawaii 1953 is hereby continued until the three-volume edition of the Revised Laws of Hawaii 1955 is printed and bound. The commission shall supervise and attend to the proofreading, printing and binding, and the inclusion of prefix, annotations, footnotes, appendices, tables and indices in the bound volumes, of the Revised Laws of Hawaii 1955. The commission may also correct before the publication of the Revised Laws of Hawaii 1955 in bound form typographical errors, erroneous references to sections and other mistakes obviously made through oversight or accident. The commission shall duly examine the Revised Laws of Hawaii 1955, as printed, and if it finds chapters 1 to 361, inclusive, and the revision of sections 1 to 5 of Act 253 of the Session Laws of Hawaii 1939 set forth in the note to section 152-23, of the mimeographed two-volume manuscript correctly reproduced therein, the chairman of the commission shall furnish to the printer a certificate to that effect and such certificate shall be reproduced at the beginning of each printed volume.

**SECTION 12. Appropriation.** There is hereby appropriated for the purpose of this Act the following sums (in addition to the moneys appropriated by Act 179 of the Session Laws of Hawaii 1953) for the following purposes:

Compensation to members of the Compilation Commission	\$ 18,000.00
Printing, binding and delivery	130,000.00
Proofreading and miscellaneous expenses	1,500.00
	<hr/> \$149,500.00

The commission may call upon the legislative reference bureau for assistance in proofreading and secretarial work, and in this connection from time to time cause funds, appropriated for the purposes of this Act,

to be transferred to any appropriation made for the legislative reference bureau, to the end that the bureau may render such assistance.

**SECTION 13. Effective date of Act.** This Act shall take effect upon its approval.

(Approved March 18, 1957.) **S.B. 11, Act 2.**

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### **ACT 3**

An Act Relating to the Use of the Governor's Contingent Fund.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Any provision of Act 275, Session Laws of Hawaii 1955 to the contrary notwithstanding, the Governor of the Territory of Hawaii may transfer not in excess of \$20,000 from the Governor's Contingent Fund created by said Act to the Hawaii Statehood Commission for its authorized purposes, provided that no funds so transferred shall be used directly or indirectly for paying the compensation of additional secretarial or clerical employees in either the Commission's Washington office or its Honolulu office.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved March 25, 1957.) **S.B. 234, Act 3.**

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### **ACT 4**

An Act Providing for Additional Penalties for Misdemeanors in Certain Instances.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Fines in misdemeanor cases.** Upon any conviction for a misdemeanor, (a) where no fine is provided therefor by law, the court may impose a fine of not more than \$500, in lieu of or in addition to any imprisonment authorized by law for such offense, and (b) where a fine or imprisonment in the alternative is provided therefor by law, the court may impose both such fine and imprisonment.

**SECTION 2.** This Act shall take effect on July 1, 1957 but shall not apply to any offense heretofore committed. Any such offense shall be punishable in the same manner and to the same extent as if this Act had not been enacted.

(Approved April 18, 1957.) **H.B. 27, Act 4.**

**ACT 5**

An Act Relating to Probate Procedure and Amending Section 317-22 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 317-22 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 317-22. Inventory.** Unless otherwise ordered by the judge, inventories of estate assets shall be filed within thirty days next succeeding qualification of a personal representative in the matter of an estate."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 22, 1957.) **H.B. 32, Act 5.**

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**ACT 6**

An Act Relating to the Presentation of Claims Against the Estate of Deceased Hansen's Diseased Patients and Kokuas, and Amending Section 317-41, Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 317-41**, Revised Laws of Hawaii 1955, is hereby amended by substituting the words "sixty days" for the words "six months" appearing in the section heading and in the second line of Section 317-41.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 22, 1957.) **H.B. 355, Act 6.**

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**ACT 7**

An Act to Amend Section 144-2 of the Revised Laws of Hawaii 1955, Relating to the Purchase of School Books by the County of Kauai.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 144-2** of the Revised Laws of Hawaii 1955 is hereby amended by deleting from subsection (g) thereof the last sentence which reads as follows:

"The board of supervisors of the county of Kauai shall purchase school books prescribed by the department of public instruction for the use, without charge, of students attending all public schools in such county;".

SECTION 2. This Act shall take effect upon its approval.

(Approved April 23, 1957.) **S.B. 52, Act 7.**

**ACT 8**

An Act Relating to Copies of Records and Their Use as Evidence, and Amending Section 57-22 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 57-22 of the Revised Laws of Hawaii 1955 is hereby amended by substituting for the words "typewritten or photostatic copies" in the third, and in the seventh and eighth lines thereof, the words and punctuation "typewritten, photostatic or microphotographic copies".

SECTION 2. This Act shall take effect upon its approval.

(Approved April 23, 1957.) **H.B. 354, Act 8.**

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**ACT 9**

An Act to Amend Section 144-40 of the Revised Laws of Hawaii 1955 Relating to Meetings of the Board of Supervisors of the Several Counties.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 144-40 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 144-40. Meetings of the Board.** The board shall hold regular meetings for the transaction of public business beginning on the first Wednesday of each month, except in the county of Maui where meetings shall be held on the first and third Fridays of each month; provided, that if any of such days is a legal holiday, then the meeting shall be held on the first regular business day following such date, except that the meeting of the Board of Supervisors of the County of Maui shall be held on the following Monday if such date shall not be a legal holiday, otherwise on the first regular business day following such date. Every meeting of the board shall continue for as many days as the transaction of public business may require. The chairman and executive officer of the board may call special meetings, as may be necessary for the public welfare."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 23, 1957.) **H.B. 613, Act 9.**

**ACT 10**

**An Act Relating to Employment Preference for Positions at Institutions for Hansen's Disease Sufferers.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 50-24 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the second paragraph and substituting in lieu thereof the paragraph to read as follows:

"When there are vacancies in positions, classified under chapters 3 and 4, which are of such nature that the health of the public or of other nonpatient staff members will not be in danger by their being filled by individuals living with or associating closely with active patients, at any hospital, settlement or place exclusively for the care and treatment of persons suffering from Hansen's disease, employment preference shall be given to temporary release patients and discharged patients from any such hospital, settlement or place, provided that such persons so hired shall be otherwise qualified under the provisions of chapters 3 and 4."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved April 23, 1957.) **H.B. 844, Act 10.**

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**ACT 11**

**An Act Amending Chapter 3 of the Revised Laws of Hawaii 1955 to provide Service Awards to Public Officers and Employees of the Territory and Counties.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Chapter 3 of the Revised Laws of Hawaii 1955, is hereby amended by adding a new section thereto, numbered Section 3-8 reading as follows:

"**Sec. 3-8. Service Awards.** The head of each department of the territorial or county governments may present to any employee who has completed 25 years or more of continuous service in any such department, a certificate, plaque or other suitable memento and the cost of the same shall be a proper charge against the appropriation of the department in which the employee serves; provided that the cost of any such certificate, plaque or memento shall not exceed the sum of \$25. Such presentation may likewise be made to an employee upon retirement who has completed 10 years or more of such government service."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved April 24, 1957.) **H.B. 113, Act 11.**



**ACT 12**

An Act Repealing Sections 7-43 and 7-44 of Chapter 7 of the Revised Laws of Hawaii 1955, Relating to Paint Testing Laboratory and Paint Testing Requirement.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Sections 7-43 and 7-44 of the Revised Laws of Hawaii 1955 are hereby repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 24, 1957.) H.B. 540, Act 12.

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**ACT 13**

An Act Relating to Restraints on the Sale or Long Term Leasing of Real Property Held by Estates and Trusts.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The legislature of the Territory of Hawaii finds that a large proportion of the real property in the Territory is being held by a relatively few trusts and estates, that restraints on the free alienation or leasing for long terms of the real property held by such estates and trusts create a hardship by precluding many of the people of the Territory from purchasing home sites or sites for other purposes and from taking advantage of government assistance in the construction of homes on land leased from such estates and trusts for short terms, and that such restraints prevent the proper development and use of real property to the detriment of such estates and trusts as well as the people of Hawaii.

The legislature finds that limitations which prohibit the trustees or officers of any estate or trust from alienating real property or leasing it for periods of fifty-five years or more tend to and do effect a restriction of free purchase and sale of real property and the proper development and use of such property and do result in the inability of many citizens of the Territory to acquire real property for homes or other purposes, and, therefore, the legislature declares such limitations to be against public policy.

SECTION 2. Notwithstanding any limitation in any instrument creating any estate or trust, whether or not eleemosynary or incorporated, and whether or not in effect prior to the effective date of this Act, which forbids or restrains the sale of real property of such estate or trust or which limits the terms of lease of such property to periods less than fifty-five years, the trustees or officers of such estate or trust, with the approval of the court, may sell the real property of such estate or trust or may lease the same for periods up to fifty-five years whether or not any such lease shall extend beyond the expiration date of such estate or trust.

SECTION 3. Whenever any will or trust instrument contains any

provision restraining the free alienation of land or limiting the term of leases to the duration of the trust or to a term of less than fifty-five years and any such provision comes before the court for construction, all doubts shall be resolved against any such restraint or limitation, and doubts as to the existence of a power of sale or power to lease beyond the term of the trust shall be resolved in favor of the existence of such power. In all cases every will or trust instrument now in existence or hereinafter executed shall be construed in harmony with the public policy declared by this Act.

SECTION 4. The legislature hereby declares that if this Act is held invalid or unconstitutional with respect to trusts and estates existing prior to the effective date hereof, it would have enacted this Act as applicable to estates and trusts arising subsequent to the effective date thereof.

If any provision hereof or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 5. This Act shall take effect upon its approval.

(Approved April 24, 1957.) S.B. 690, Act 13.

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## ACT 14

An Act to Amend Section 144-32 of the Revised Laws of Hawaii 1955, Relating to Traveling and Other Expenses of Members of Board of Supervisors.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 144-32** of the Revised Laws of Hawaii 1955, is hereby amended by substituting a semi-colon for the period at the end thereof, and by adding thereto, after such semi-colon, the following proviso:

“**provided**, further, that any person elected to the office of supervisor for the county of Maui from the island of Molokai or from the island of Lanai shall be allowed the actual cost of his traveling expenses in going to and returning from meetings of the board and, in addition thereto, any other reasonable expense incurred by him in attending such meetings.”

SECTION 2. This Act shall take effect upon its approval.

(Approved April 24, 1957.) H.B. 616, Act 14.

**ACT 15**

An Act Amending Section 144-33 of the Revised Laws of Hawaii 1955,  
Relating to Powers of the Board of Supervisors.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 144-33** of the Revised Laws of Hawaii 1955 is hereby amended by substituting for the amount \$2,000 in subsection (n) thereof the amount \$4,000.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 24, 1957.) **H.B. 985, Act 15.**

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**ACT 16**

An Act to Amend Sections 37-2, 37-3 and 37-4 of the Revised Laws of Hawaii 1955, Relating to the Board of Commissioners of Public Instruction and the Superintendent of Public Instruction.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 37-2** of the Revised Laws of Hawaii 1955 is hereby amended as follows:

(a) In line 17 the word "eight" shall be deleted and the word "seven" substituted in its place so that henceforth the sentence amended shall read as follows:

"The governor, in the manner prescribed in section 80 of the Organic Act, shall appoint a board of seven commissioners."

(b) In lines 25 and 26 the sentence "The superintendent of public instruction shall be a member ex-officio, on full parity with the other members" shall be deleted.

(c) In line 32 the word "five" shall be deleted and the word "four" substituted in its place so that henceforth the sentence amended shall read as follows:

"Not more than four of the commissioners shall belong to the same political party."

SECTION 2. The first sentence in **section 37-3** of the Revised Laws of Hawaii 1955 shall be deleted, and the following sentence substituted in its place:

"Neither the superintendent of public instruction, nor any person in holy orders, nor any minister of religion shall be eligible as a commissioner."

SECTION 3. **Section 37-4** of the Revised Laws of Hawaii 1955 is hereby amended as follows:

(a) In the first sentence, line 49, the word "five" shall be deleted and the word "four" substituted in its place so that henceforth the sentence amended shall read as follows:

"Four commissioners shall constitute a quorum for the transaction of business."

(b) In the second sentence, line 52, the word "five" shall be deleted and the word "four" substituted in its place so that henceforth the sentence amended shall read as follows:

"At least one meeting shall be held in each quarter of the year and such other meetings shall be held as in the opinion of the chairman or any four commissioners may be necessary for the proper transaction of the business of the department."

SECTION 4. This Act shall take effect upon its approval.

(Approved April 24, 1957.) **S.B. 377, Act 16.**

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### ACT 17

An Act Relating to Juries and Amending Section 221-19 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 221-19** of the Revised Laws of Hawaii 1955 is hereby amended by placing a period after the word "aforesaid" appearing on line seventeen thereof, deleting remainder of the section and substituting therefor the following:

"If a jury cannot be chosen for the trial of any case from the number first summoned for any jury panel, a special jury panel may be called from time to time by the drawing of such a number of additional names from the trial jury box as the judge shall direct, and the persons whose names have been so drawn shall be forthwith summoned to appear as ordered by the judge. The names of all jurymen summoned for any special jury panel who have not been required to serve on the trial of any case shall be returned to the trial jury box, and the names of all jurymen summoned for any special jury panel who have been required to serve on the trial of any case may be returned, after the trial of such case, either to the trial jury box or to the inactive trial jury box, as directed by the judge."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 25, 1957.) **H.B. 28, Act 17.**

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### ACT 18

An Act Relating to Jury Lists and Amending Section 221-10 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The first paragraph of Section 221-10 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"**Sec. 221-10. Jury lists.** In every year the jury commission of each circuit shall make and, at least ten days before the next term

of court, shall file with the clerk of the circuit court, wherein acting, two certified, separate lists of names and addresses of citizens to be subject to serve as jurors during the ensuing year. The said jury commission of a circuit shall select and the said lists shall, respectively, be of the names and addresses of fifty citizens subject to be grand jurors and, in the first circuit two thousand and in each of the other circuits the names and addresses of four hundred citizens subject to be trial jurors. However, if in any of the circuits the jury commission is not able to select the number specified by this section to be subject to serve as trial jurors, the commission shall report accordingly to the circuit court of that circuit and, with the approval of the judge, or administrative judge, of that court, shall select and list the highest number deemed by the commission to be practicable."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 25, 1957.) **H.B. 29, Act 18.**

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### ACT 19

An Act Relating to the Sale of Real Property by Guardians and Amending Sections 338-44 and 338-45 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 338-44 of the Revised Laws of Hawaii 1955 is hereby amended by substituting a comma for the period at the end thereof and adding the following words:

"and whether the sale shall be public or private."

SECTION 2. Section 338-45 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"Sec. 338-45. When private sale or exchange authorized. Upon the issuing of a license for a private sale or exchange the judge may determine whether the guardian shall be required to comply with the provisions of section 338-49. Any private sale or exchange made pursuant to the provisions of this section shall be as valid as if the ward had been competent to make and had made the sale or exchange in person, notwithstanding any other provision of this chapter."

SECTION 3. This Act shall take effect upon its approval.

(Approved April 25, 1957.) **H.B. 34, Act 19.**

**ACT 20**

An Act Relating to the Selection of Jurors and Amending Section 221-15 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 221-15** of the Revised Laws of Hawaii 1955 is hereby amended by substituting the words "administrative judge" for the words "first judge" as the same appear in line 15 thereof.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 25, 1957.) **H.B. 40, Act 20.**

**ACT 21**

An Act Relating to the Finances of the Territory, Amending Act 2, Special Session Laws of Hawaii 1956.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Paragraph 1, section 5 of Act 2, Special Session Laws of Hawaii 1956 is hereby amended by substituting the sums hereinafter mentioned and identified for those sums similarly identified in said section 5:

Fund	Amount Reappropriated Hereby
Oahu Prison Store .....	\$ 5,436.00
Kawailoa Girls' Home Store Fund .....	4,604.00
Board for the Licensing of Nurses .....	6,972.00
Board of Pharmacy .....	1,717.00
Cat and Dog Fund .....	4,504.00
Fair Commission of Hawaii .....	1,519.00
Small Boat Harbor Maintenance Fund .....	43,470.00
Territorial Hospital Special Fund .....	4,930.00
Kawailoa Girls' Home Special Fund .....	23,717.00
Board of Optometry .....	400.00
Board of Veterinary Examiners .....	259.00
Board of Private Detectives .....	546.00
Alcoholism Clinic .....	1,745.00
Board of Medical Examiners .....	1,440.00

Said paragraph 1, section 5 is further amended by deleting therefrom the following mentioned and identified sums:

Fund	Amount Reappropriated Hereby
Radium Insurance Fund .....	\$ 3,183.00
Kalaupapa Store Revolving Fund .....	26,990.00
Shop Revolving Fund and Handicraft .....	36,406.00
Territorial Prison Special Fund .....	43,787.00

Said paragraph 1, section 5 is further amended by deleting "Land Development Revolving Fund and" and amending the "amount reappropriated hereby" for the "Special Land Funds" from "\$1,060,000.00" to "\$885,000.00".

SECTION 2. This Act shall take effect upon its approval.

(Approved April 25, 1957.) H.B. 512, Act 21.

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## ACT 22

An Act Relating to Investigation, Study and Inventory of the Water Resources of the Territory, Planning for the Development, Conservation and Use of such Water Resources; Establishing and Providing Certain Duties and Functions for the Hawaii Water Authority; Amending and Repealing Inconsistent Laws; and Making an Appropriation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Definitions.** The following terms whenever used and referred to in this Act shall have the following respective meanings unless a different meaning clearly appears in the context:

(a) "Water Authority" means the Hawaii Water Authority established by this Act.

(b) "Water Resources" means all sources of water supply in the Territory which are or may be used or can be made to be usable to supply the domestic, military, agricultural and industrial water requirements within the Territory of Hawaii, and without limiting the generality of the foregoing shall include surface water, ground water and brackish, salt and other water which is or can be made usable to supply any of such water requirements.

SECTION 2. **Findings and declaration of necessity.** It is hereby found and determined that the general welfare and health of the people of the Territory and the sound economic development of the Territory require thorough investigation and study of all of the water resources of the Territory, a current and continuing inventory of all water resources of the Territory, including full information concerning their nature, location, quantity, quality and existing and potential utilization, and the development and revision from time to time as necessary of a master plan for the development, conservation and use of all of the water resources of the Territory.

SECTION 3. **Hawaii Water Authority established.** The Hawaii Irrigation Authority shall constitute and is hereby established as the Hawaii Water Authority. Its name shall be changed from Hawaii Irrigation Authority to Hawaii Water Authority and it shall have, in addition to other powers and duties conferred upon it by law, the powers and duties conferred upon it by this Act.

SECTION 4. **Compilation of existing information.** The Hawaii Water Authority shall collect and correlate all information heretofore recorded concerning the water resources of the Territory of Hawaii. The

several Boards of Water Supply and Water Departments, the Territorial Surveyor, the Board of Commissioners of Agriculture and Forestry, the Economic Planning and Coordination Authority, the Superintendent of Hydrography and all other agencies and departments of the territorial and several county governments having any such information shall upon request of the Water Authority make their records of the same available to the Water Authority for such period as the Water Authority shall reasonably require. The Water Authority shall also request the cooperation of and disclosure of any such information by the Commissioner of Public Lands, the Hawaiian Homes Commission and the United States Geological Survey.

**SECTION 5. Surveys and inventory of water resources.** The Water Authority shall initiate and conduct such surveys of the water resources and requirements in the Territory as may be required to enable the formulation and revision from time to time as necessary of a master plan for the development, conservation and most beneficial use of all of such water resources. As an aid thereto, the Water Authority shall also make an inventory of all of such water resources and compile sufficient information concerning the nature, location, quantity, quality, existing and potential utilization and other characteristics of the same as will enable a proper evaluation to be made of such water resources for the purposes of planning their development, conservation and use.

**SECTION 6. Study of processes for utilization of currently unusable water resources.** The Water Authority shall review available information concerning the use of evaporation, distillation, ion exchange and other processes for, and shall conduct such research, studies and tests as may be necessary to ascertain and keep current upon the possibilities for and feasibility of the conversion of non-potable water to domestic use and the utilization for agricultural and industrial purposes of brackish, salt or other water not suitable in its natural state for such use.

**SECTION 7. Cooperation with United States Geological Survey.** The Water Authority shall seek the assistance and cooperation of the United States Geological Survey and may accept grants and matching funds from and may enter into contracts and agreements with the United States Geological Survey and any other department, bureau or agency of the United States to carry out the purposes of this Act.

**SECTION 8. Publication of information.** The Water Authority shall keep all information assembled by it concerning the water resources of the Territory on file in its offices and available for public inspection, and shall publish so much of the same in compilation or other convenient form from time to time as may be necessary or desirable for the use and guidance of the major users or suppliers of water and the public.

**SECTION 9. Qualified personnel.** Qualified geologists, hydrographers and other scientific and technical personnel necessary to carry out the purposes of this Act may, with the approval of the governor, be engaged by the Water Authority without regard to the requirements of chapters 3 and 4 and section 5-1 of the Revised Laws of Hawaii 1955.

**SECTION 10. Planning water systems.** The Water Authority



shall assist and cooperate with the several Boards of Water Supply and Water Departments, the Commissioner of Public Lands, the Hawaiian Homes Commission, and industry in the Territory in investigating and planning the development and use of water for domestic and industrial water supply systems when requested so to do by any of them and upon arrangements being made concerning payment by them for the services of the Water Authority in such connection. Except as is now permitted with respect to domestic water systems incidental to irrigation projects, as provided in section 86-20.2, Revised Laws of Hawaii 1955, or when specifically requested so to do by the legislature, however, the Water Authority shall not design or construct any domestic or industrial water system.

**SECTION 11. Functions of Boards of Water Supply and Water Departments unimpaired.** Nothing in this Act shall be deemed to restrict or modify the powers and duties of the several Boards of Water Supply and Water Departments, or to prevent any of them from continuing to carry out such investigations, studies and planning as may be necessary or convenient to their proper and efficient management and operation and the accomplishment of the purposes of the legislation governing them.

**SECTION 12. Reports.** The Water Authority shall at the beginning of each regular legislative session file with the legislature a report of its operations under this Act, not previously reported to the legislature, and shall make any recommendations with reference to such legislation or other action as may be required to carry out the purposes of this Act.

**SECTION 13. Appropriation.** The sum of \$125,000.00 is hereby appropriated from the general revenues of the Territory not otherwise appropriated for the purposes of the Water Authority in carrying out its duties under this Act. Such sums shall be used only for the accomplishment of the purposes of this Act.

**SECTION 14. Amendment of existing laws.** Chapters 86 and 87, Revised Laws of Hawaii 1955, Act 240, Session Laws of Hawaii 1951, as amended, and Act 273, items (1) (b) and (1) (c), Session Laws of Hawaii 1955, are hereby amended by striking out the words "Hawaii Irrigation Authority," "Authority" and equivalent expressions therein and substituting therefor the words "Hawaii Water Authority," "Water Authority" and equivalent expressions.

**SECTION 15. Severability.** The provisions of this Act are declared to be severable and if any portion of this Act or the application of this Act to any person, circumstance or property is held invalid for any reason, the validity of the remainder of this Act or the application thereof to any other person, circumstance or property shall not be affected.

**SECTION 16. Effective date.** This Act shall take effect upon its approval.

(Approved April 26, 1957.) **S.B. 708, Act 22.**

## ACT 23

An Act Relating to the Economic Planning and Coordination Authority, Amending Chapter 28A of the Revised Laws of Hawaii 1955, Relating to the Authority as Successor to Industrial Research Advisory Council.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 28A-1 of the Revised Laws of Hawaii 1955 is hereby amended by adding a new section to be numbered 28A-1.5 which shall read as follows:

**"Sec. 28A-1.5 — Definitions.** The following terms, whenever used and referred to in this chapter, shall have the following respective meanings, unless a different meaning clearly appears in the context:

(a) 'Authority' shall mean the Economic Planning and Coordinating Authority.

(b) 'Government' shall mean the Territory, or any of its political subdivisions, agencies, and instrumentalities, corporate or otherwise, unless otherwise indicated.

(c) 'Industry' and 'Industrial' shall mean the manufacture, processing or assembly of raw, semi-manufactured, or manufactured products, including agricultural products, but for the purposes of this Chapter, shall not include the growing, cultivation or harvesting of agricultural products.

(d) 'Agriculture' and 'Agricultural' shall mean the planting, cultivating and harvesting of crops, including those so planted, cultivated and harvested for food, ornamental, grazing or forest purposes. Once such crops are harvested and transported to a point of distribution, they cease to be agricultural in the terms of this Chapter."

SECTION 2. **Section 28A-2** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the third paragraph thereof.

SECTION 3. Section 28A-3 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) By amending the first paragraph thereof to read as follows:

**"Sec. 28A-3. Director, assistant director, promotion director and employees; duties.** The authority shall employ a director of the authority who shall be experienced in economic development activities and an assistant director who shall be experienced in research methods and techniques and a promotion director who shall be experienced in industrial and economic promotional activities, each of whom shall be exempt from the provisions of chapters 3 and 4. Subject to the approval of the authority, the director may employ such persons as may be authorized by the authority and he shall determine their qualifications, duties and compensations subject to the provisions of chapters 3 and 4. The compensation of the director, and of the assistant director and the promotion director shall be determined by the authority."

(b) By adding at the end of paragraph 3 thereof the following:

"No such contract shall be entered into by the authority until all interested and qualified persons registered to do business in the Territory of Hawaii have been given a reasonable opportunity to submit their proposal of the manner in which such contract is to be performed and the results which can be achieved within the limit of the funds available, together with their qualifications to do the work."

SECTION 4. Section 28A-5 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 28A-5. General objective, functions and duties of authority.** It shall be the objective of the authority to make broad policy determinations with respect to economic development in the Territory and to stimulate through research and demonstration projects those industrial and economic development efforts which offer the most immediate promise of expanding the economy of the Territory. The authority shall endeavor to gain an understanding of those functions and activities of other governmental agencies and of private agencies which relate to the field of economic development. The authority shall, at all times, encourage initiative and creative thinking in harmony with the objectives of the authority."

SECTION 5. Section 28A-6 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) By amending subparagraph (c) thereof to read as follows:

"(c) Land development. The authority shall encourage the most productive use of all land in the Territory in accordance with a general plan developed by the department of planning; encourage the improvement of land tenure practices on leased private lands; promote an informational program directed to land owners, producers of agricultural and industrial commodities and the general public regarding the most efficient and most productive use of the lands in the Territory; and make such grants or contracts as may be necessary or advisable to accomplish the foregoing."

(b) By adding thereto a new subparagraph to read as follows:

"(e) Promotion. The authority shall, through the promotion director, disseminate information developed for or by the authority pertaining to economic development to assist present industry in the Territory, attract new industry and investments to the Territory and assist associations of producers and distributors of Hawaiian products to introduce new products to consumers. The industrial and economic promotional activities of the authority may include the use of literature, advertising, demonstrations, displays, market testing, lectures, travel, motion picture and slide films and such other promotional and publicity devices as may be appropriate."

SECTION 6. Section 28A-7 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 28A-7. Advisory committees.** The authority may appoint advisory committees as it deems advisable for the purpose of obtaining expert and specialized counsel and advice on specific matters under consideration by the authority and may include as members of such committees officers and employees of any government department or agency. The authority may assign its own staff to aid and assist such advisory committees and may reimburse any member of any such committee for necessary expenses incurred in the performance of their work for the authority."

SECTION 7. Section 28A-8 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 28A-8. Recommendations to agencies.** On the basis of submitted reports and such other information as the authority may obtain, it may, as it deems it desirable for the best coordination and effectiveness of economic development activities in the Territory, make recommendations in writing to any agency of the territorial government."

SECTION 8. Act 122 of the Session Laws of Hawaii 1949 and Act 217 of the Session Laws of Hawaii 1951 are hereby repealed.

SECTION 9. This Act shall take effect on July 1, 1957.

(Approved April 26, 1957.) **S.B. 15, Act 23.**

## ACT 24

An Act Relating to the Employees' Retirement System, Providing that Legislators May Receive Service Retirement Benefits for Legislative Service upon Attaining the Age of Sixty-Five, and Amending Chapter 6 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 6-41** of the Revised Laws of Hawaii 1955 is hereby amended by adding to it a subsection (d) to read as follows:

"(d) Any member who has attained the age of sixty-five may be retired from the system and receive service retirement allowance although he continues to be a member of the legislature."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 26, 1957.) **H.B. 21, Act 24.**

## ACT 25

An Act Relating to the Powers of the Clerk of any District Court and Amending Section 229-2 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 229-2 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

DISTRICT COURT CLERK'S POWERS  
STANDARD ANNUITY TABLES  
ADDING KAU DISTRICT  
SUPPLEMENTARY APPROPRIATION

ACTS 25-26-27-28

**"Sec. 229-2. Powers of clerk.** The clerk of any district court, as well as the magistrate thereof, may sign and certify any judgment rendered in such court, may sign any subpoena and execution, administer administrative oaths, and may issue garnishee summons which shall be operative as to the garnishee throughout the judicial circuit in which the particular district court is situated."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 26, 1957.) **H.B. 43, Act 25.**

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**ACT 26**

An Act Relating to Mortality Tables as a Standard of Values and Amending Section 319-17 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 319-17** of the Revised Laws of Hawaii 1955 is hereby amended by substituting for the words "American experience tables" appearing in line nine thereof, the words "Standard Annuity tables".

SECTION 2. This Act shall take effect upon its approval.

(Approved April 26, 1957.) **H.B. 44, Act 26.**

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**ACT 27**

An Act Relating to the Criminal Jurisdiction of the Several District Courts and Amending Section 216-9 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 216-9** of the Revised Laws of Hawaii 1955 is hereby amended by adding to the enumeration of the districts therein, the district of Kau, Hawaii.

SECTION 2. This Act shall take effect upon its approval.

(Approved April 26, 1957.) **H.B. 46, Act 27.**

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**ACT 28**

An Act Making Supplementary Appropriations Out of the General Revenues to Cover Certain Deficiencies in Territorial Departments for the Biennial Period Ending June 30, 1957.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That the following sums or so much thereof as may be necessary, are hereby appropriated for objects and purposes herein-

after specified, in addition to any appropriations made for the same or similar purposes by another Act, out of moneys in the treasury received from general revenues:

BOXING COMMISSION		270
A. Personal Services	90	
A. Contingent Appropriation	180	
The above contingent appropriation is based on two fights per month being held for the remainder of the biennium.		
BUREAU OF THE BUDGET		34,110
F. Bonus to Pensioners, Act 266, SLH 1955	34,110	
JUDICIAL BRANCH		39,061
First Circuit Court Proper	34,046	
First Circuit Court — Adult Probation	4,100	
Second Circuit Court	915	
COMMISSION ON SUBVERSIVE ACTIVITIES		4,500
TAX COMMISSIONER		54,553
A. Personal Services	54,553	
TREASURY DEPARTMENT		10,284
Public Debt Service		
B. Other Current Expenses	10,284	
GRAND TOTAL		142,778

SECTION 2. All unexpended and unencumbered balances of the appropriations made by this Act as of the close of business on June 30, 1957, shall be lapsed into the general fund of the Territory.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 26, 1957.) H.B. 824, Act 28.

## ACT 29

An Act to Amend Section 14-5 of the Revised Laws of Hawaii 1955, Relating to the Territorial Seal.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 14-5 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 14-5. Territorial seal, description.** The great seal of the Territory shall be circular in shape, two and three-quarters inches in diameter, and of the design being described, with the tinctures added as a basis for the coat of arms, as follows:

Arms. An heraldic shield which is quarterly; first and fourth, stripes of the territorial flag; second and third, on a yellow field, a white ball pierced on a black staff; overall, a green escutcheon with a five-pointed yellow star in the center.

Supporters. On the right side, Kamehameha I, standing in the attitude as represented by the bronze statue in front of Aliioli Hale, Honolulu; cloak and helmet yellow; figure in natural colors. To the left, goddess of liberty, wearing a Phrygian cap and laurel wreath, and holding in right hand the territorial flag, partly unfurled.

Crest. A rising sun irradiated in gold, surrounded by a legend 'Territory of Hawaii, 1900', on a scroll, black lettering.

Motto. 'Ua mau ke ea o ka aina i ka pono' on the scroll at bottom, gold lettering.

Further accessories. Below the shield, the bird Phoenix wings outstretched; arising from flames, body black, wings half yellow, half dark red; also eight taro leaves, having on either side banana foliage and sprays of maidenhair fern, trailed upwards."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 29, 1957.) H.B. 509, Act 29.

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### ACT 30

An Act Relating to Public Employment, Authorizing Recesses for Public Officers and Employees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 5 of the Revised Laws of Hawaii 1955 is hereby amended by adding a new section thereto to read as follows:

"Sec. [5-70.5]. **Recesses.** The head of any department, board, commission or agency may allow employees under his supervision to take a recess each morning and afternoon not exceeding ten minutes in duration, if their doing so does not impair the functions of the department, board, commission or agency."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 29, 1957.) H.B. 171, Act 30.

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### ACT 31

An Act to Amend Section 329-29 of the Revised Laws of Hawaii 1955 Relating to the Designation of the State Information Agency Under the Uniform Reciprocal Enforcement of Support Law.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 329-29 of the Revised Laws of Hawaii 1955 is hereby amended by deleting therefrom the phrase "department of public

welfare" and inserting in lieu thereof the phrase "legislative reference bureau."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 30, 1957.) **H.B. 555, Act 31.**

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### **ACT 32**

An Act Amending Chapter 44 of the Revised Laws of Hawaii 1955 Relating to University of Hawaii Projects.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 44 of the Revised Laws of Hawaii 1955 is hereby amended by amending section 44-64 to read as follows:

**"Sec. 44-64. Loans.** Loans shall be made in the name of the board, shall bear interest at such rate or rates not exceeding six per cent per annum, payable semi-annually, may mature at such time or times not exceeding fifty years from the date of their respective dates of authorization, may be payable at such place or places, may be subject to such terms of retirement, may be executed in such manner and evidenced by such instruments, and may contain such terms, covenants and conditions as the resolution authorizing the obtaining of the loan, or subsequent resolutions may provide."

SECTION 2. This Act shall take effect upon its approval.

(Approved April 30, 1957.) **H.B. 558, Act 32.**

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### **ACT 33**

An Act Appropriating \$100,000.00 to the Office of Tax Commissioner of the Territory for the Purpose of Improving and Expanding the Appraisal Section of the Division of Real Property Tax.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby appropriated from the general revenues of the Territory, not otherwise appropriated, the sum of \$100,000.00 to be expended under the direction and control of the tax commissioner for the purpose of improving and expanding the appraisal section of the division of real property tax. The tax commissioner is hereby authorized to create and to fill a new position in the division of real property tax, the duties of which position shall be and include the study and preparation of technical cost and value factors involved in the appraisal of real property for taxation purposes. The tax commissioner is hereby further authorized to engage on contractual basis qualified private land appraisers to implement and expedite the work of the said appraisal section.

SECTION 2. This Act shall take effect on July 1, 1957.

(Approved April 30, 1957.) **S.B. 9, Act 33.**



## ACT 34

An Act Relating to Taxation, Amending Chapters 116, 117, 119, 120, 121, 125 and 126 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 116-19** of chapter 116, Revised Laws of Hawaii 1955, is amended as follows:

(a) By amending the caption which follows the section number by deleting therefrom the words "to tax appeal or supreme court".

(b) By inserting at the beginning of the section a new paragraph to read as follows:

"The costs to be deposited by the taxpayer on appeal to the board of review shall be \$3 for each real property tax appeal. No costs shall be charged on appeal to the board of review in other cases."

This section 1 shall take effect on January 1, 1958.

SECTION 2. **Section 116-20** of chapter 116, Revised Laws of Hawaii 1955, is amended as follows:

(a) By inserting at the beginning of the section a new paragraph to read as follows:

"In the event of an appeal to the board of review, if the appeal shall be compromised, or shall be sustained as to fifty per cent or more of the valuation in dispute, the costs deposited shall be returned to the appellant. Otherwise the entire amount of costs deposited shall be retained."

(b) By deleting from the first sentence of the present section (which will become the second paragraph) the words: "In the event of an appeal or objection being sustained" and inserting in lieu thereof the following:

"In the event of an appeal to the tax appeal court, if the appeal or objection shall be sustained".

SECTION 3. **Section 117-1** of chapter 117, Revised Laws of Hawaii 1955, is amended by deleting from the last paragraph all that follows the comma after the words "calendar year", and inserting in lieu thereof the following:

"or the taxpayer's fiscal year when the same constitutes the tax period instead of the calendar year pursuant to section 117-12."

SECTION 4. **Section 117-12** of chapter 117, Revised Laws of Hawaii 1955, is amended by inserting in the second sentence, after the comma following the word "commissioner", the following:

"and upon the direction of the commissioner shall,".

SECTION 5. **Section 117-14** of chapter 117, Revised Laws of Hawaii 1955, is amended in the following respects:

(a) By amending paragraph (2) of subsection (b) thereof by changing the period at the end of the paragraph to a comma and adding after the comma the following:

"and whenever there occurs in the Territory an activity to which, under the Constitution and Acts of Congress, there may be attrib-

buted gross proceeds of sales, such gross proceeds shall be so attributed."

(b) By amending paragraph (3) of subsection (c) thereof by deleting from subparagraph (ii) the words "as if the sale were made to the federal government direct." and inserting in lieu thereof the following:

"the same as upon a sale to the territorial government."

SECTION 6. **Section 117-16** of chapter 117, Revised Laws of Hawaii 1955, is amended by amending subsection (d) by inserting in said subsection (d) between the words "who is" and the word "taxable", which appear in the fourth line of the subsection, the following:

"a manufacturer".

SECTION 7. **Section 117-21.5** of chapter 117, Revised Laws of Hawaii 1955, is amended by adding thereto a new subsection (e) to read as follows:

"(e) The exemption granted by this section shall not apply to the privilege of manufacturing or producing products sold for delivery outside the Territory or shipped or transported out of the Territory, but in other cases of products sold in the Territory as provided in subsection (a), the exemption shall apply to the seller in respect of the privilege of manufacturing or producing, as well as the privilege of selling, and the value or gross proceeds of sales of the products so sold shall be excluded from the measure of the tax imposed by chapter 117 upon the seller as a manufacturer or producer, save as provided in subsection (d)."

SECTION 8. **Sections 117-24 and 119-7** of the Revised Laws of Hawaii 1955, are amended by deleting the words "five years" and inserting in lieu thereof the words:

"seven years".

SECTION 9. **Section 117-25** of chapter 117 is amended as follows:

(a) By amending the second sentence to read as follows:

"The taxpayer shall, within twenty days from the expiration of each month, make out and sign a return of the installment of tax for which he is liable for that month and transmit the same, together with a remittance, in the form required by section 117-26, for the amount of the tax, to the office of the appropriate divisional tax assessor hereinafter designated."

(b) By adding at the end of the section the following paragraph:

"Section 116-2 does not apply to a monthly return."

SECTION 10. **Section 117-28** of chapter 117 is amended in the following respects:

(a) By inserting in the first sentence, after the words "shall make a return showing the", the following:

"value of products,".

(b) By adding at the end of the section the following paragraph:

"Section 116-2 applies to the annual return, but not to a monthly return."

SECTION 11. Chapter 117 of the Revised Laws of Hawaii 1955, is amended as follows:

(a) By amending **section 117-5** in the following respects:

(1) By deleting that portion of the first sentence which precedes the colon in the fourth line of the section, and inserting in lieu thereof the following:

“‘Wholesaler’ or ‘jobber’ applies only to a person making sales at wholesale. Only the following are sales at wholesale:”.

(2) By deleting from the fifth line thereof the words “or jobber” and inserting a comma and the following:

“jobber or other licensed seller”.

(b) By amending **section 117-6** in the following respects:

(1) By deleting from the fifth line of the section the words “who sells” and inserting in lieu thereof the following:

“for sale, or for shipment or transportation out of the Territory, of the”.

(2) By changing the comma after the word “fish” in the seventh line of the section to a period and by deleting the remainder of the section following the period.

(c) By amending **section 117-10** by inserting after the words “gross proceeds of sales” in the second line of the section the words “or value of products”.

(d) By amending **section 117-14** by deleting from the fifth line of the section the words “values, gross proceeds of sales or gross income, as the case may be, as follows:” and inserting in lieu thereof the following:

“values of products, gross proceeds of sales or gross income, whichever is specified, as follows:”.

(e) By amending **subsection (a)** of **section 117-14** in the following respects:

(1) By deleting from paragraph (1) thereof the words “all manufacturers on whose gross income a tax is not otherwise levied in this chapter,” and inserting in lieu thereof:

“all other manufacturers,”.

(2) By deleting from paragraph (2) thereof the words “the value of the entire product manufactured, compounded, canned, preserved, packed, milled, processed, refined or prepared, in the Territory, for sale, profit or commercial use,” and inserting in lieu thereof the following:

“the value of the entire product, for sale,”.

(3) By deleting the paragraph numbered (6).

(f) By amending **subsection (b)** of **section 117-14** in the following respects:

(1) By amending the paragraph numbered (1) by changing the comma which precedes the words “and in the case of a producer” to a period and by deleting the words “and in the case of a producer,” and inserting in lieu thereof the following:

“Upon every person engaging or continuing within this Territory in the business of a producer,”.

(2) By further amending the paragraph numbered (1) by changing the period at the end of the paragraph to a comma and adding after the comma the following:

“or the value of the products, for sale, if sold for delivery outside the Territory or shipped or transported out of the Territory.”

(3) By deleting the paragraphs numbered (3) to (5) inclusive and inserting in lieu thereof the following:

“(3) No manufacturer or producer, engaged in such business in the Territory and selling his products for delivery outside of the Territory (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), shall be required to pay the tax imposed in this chapter for the privilege of so selling his products, and the value or gross proceeds of sales of such products shall be included only in determining the measure of the tax imposed upon the manufacturer or producer as such.

(4) When a manufacturer or producer, engaged in such business in the Territory, also is engaged in selling his products in the Territory at wholesale, retail, or in any other manner, the tax for the privilege of engaging in the business of selling such products in the Territory shall apply to him as well as the tax for the privilege of manufacturing or producing in the Territory, and he shall make the returns of the gross proceeds of such wholesale, retail or other sales required for the privilege of selling in the Territory, as well as making the returns of the value or gross proceeds of sales of his products required for the privilege of manufacturing or producing in the Territory. He shall pay the tax imposed in this chapter at the highest rate applicable for any of the privileges exercised by him in respect of the particular products, and the value or gross proceeds of sales of such products, thus subjected to tax at the highest rate, may be deducted insofar as duplicated as to the same products by the measure of the tax upon him for the other privileges enumerated in this subsection and subsection (a).”

(4) By renumbering the present paragraph (6) to become paragraph (5).

(g) By amending subsection (h) of section 117-14 by deleting the last sentence thereof and inserting in lieu thereof the following:

“In addition, the rate prescribed by this subsection shall apply to a business taxable under one or more of the preceding subsections or other provisions of this chapter, as to any gross income thereof not taxed thereunder as gross income or gross proceeds of sales or by taxing an equivalent value of products, unless specifically exempted.”

(h) By inserting therein, immediately following section 117-14, a new section to be appropriately numbered and to read as follows:

**“Sec. [117-14.1]. Segregation of gross income etc. on records and in returns.** The imposition of taxes and the application of tax rates does not depend upon the business in which the taxpayer is primarily engaged. One business may be subject to two or more tax rates. If a business is within the purview of two or more of the subsections of section 117-14 or other provisions of this chapter all of them apply, each provision being applicable to the

appropriate item of gross income, gross proceeds of sales or value of products. However, any person engaging or continuing in a business having gross income, gross proceeds of sales and value of products, or any of these as the case may be, taxable at different rates, shall be subject to taxation upon the aggregate amount of the gross income, gross proceeds of sales and value of products of the business at the highest rate applicable to any part of the aggregate, unless he shall segregate the parts taxable at different rates upon his records and in his returns, and shall sustain the burden of proving that the segregation was correctly made."

(i) By inserting therein, immediately following section 117-17, a new section to be appropriately numbered and to read as follows:

**"Sec. [117-17.1]. Principles applicable in certain situations.** A person or company having shareholders or members (a corporation, association, group, trust, partnership, joint adventure or other person) is taxable upon its business with them, and they are taxable upon their business with it. A person or company, whether or not called a cooperative, through which shareholders or members are pursuing a common objective (for example, the obtaining of property or services for their individual businesses or use, or the marketing of their individual products) is a taxable person, and such facts do not give rise to any tax exemption or tax benefit except as specifically provided. Even though a business has some of the aspects of agency it shall not be so regarded unless it is a true agency. Without prejudice to the generality of the foregoing, the reimbursement by one person of the amount of costs incurred by another constitutes gross income of the latter, unless the person making the reimbursement was himself, as principal, liable in that amount to the third party who furnish the property, services and the like for which the costs were incurred."

(j) By amending section 117-19 to read as follows:

**"Sec. 117-19. Conformity to Constitution, etc.** In computing the amounts of any tax imposed under this chapter, there shall be excepted or deducted from the values, gross proceeds of sales or gross income so much thereof as, under the Constitution and laws of the United States, the Territory is prohibited from taxing, but only so long as and only to the extent that the Territory is so prohibited."

(k) By amending section 117-21 in the following respects:

(1) By deleting all that precedes the colon in the third line and inserting in lieu thereof the following:

**"Sec. 117-21. Amounts not taxable.** The provisions of this chapter shall not apply to the following amounts:"

(2) By amending paragraph (m) to read as follows:

**"(m)** The amounts received as benefit payments so-called or like payments by virtue of the Sugar Act of 1937, Sugar Act of 1948 or other Acts of the Congress relating thereto and disbursed as benefit payments, but the benefit payments so disbursed shall constitute gross income of the business of the person to whom

disbursed, and the benefit payments retained shall constitute gross income of the business of the person by whom retained, provided further, that the commissioner may require that deductions for benefit payments disbursed be set forth specifically by the taxpayer in his return;”

(3) By inserting a new paragraph, to follow paragraph (k), to be appropriately designated and to read as follows:

“[k-1] The amounts of federal taxes under chapter 37 of the Internal Revenue Code, or similar federal taxes, imposed on sugar manufactured in the Territory, paid by the manufacturer to the federal government;”

(1) By amending **section 117-32** by adding thereto the following new paragraph:

“The provisions of this section do not apply in the case of a payment made pursuant to an assessment by the commissioner. No refund or overpayment credit may be had under this section in any event unless the original payment of the tax was due to the law having been interpreted or applied in respect of the taxpayer concerned differently than in respect of taxpayers generally. As to all tax payments for which a refund or credit is not authorized by this section (including without prejudice to the generality of the foregoing cases of unconstitutionality) the remedies provided by appeal or under section 34-24 are exclusive.”

Subsections (a) to (k) of this section 11 shall not, in the application of the tax laws for periods prior to the approval of this Act, be given any effect either as an expression by the legislature that the law was the same prior to the amendments or was not the same. Subsection (l) of this section 11 shall apply to periods prior to the approval of this Act as well as thereafter; provided, that in litigation pending on or before April 1, 1957 subsection (l) shall not be given effect either as an expression by the legislature that the law was the same prior to the amendments or was not the same.

**SECTION 12.** **Section 119-2** of chapter 119, Revised Laws of Hawaii 1955, is amended by deleting from paragraph (g) the semicolon at the end thereof and by adding at the end of said paragraph (g) the following:

“and will be included in the measure of the tax imposed by chapter 117 upon the contractor as such;”.

**SECTION 13.** **Section 120-4** of chapter 120, Revised Laws of Hawaii 1955, is amended as follows:

(a) By inserting in lieu of the words: “Any such compensation” at the beginning of subsection (b) the following:

“There shall be exempt from the tax imposed by this section any such compensation”.

(b) By deleting from subsection (b) the words “shall be exempt from the tax imposed by this section” and inserting in lieu thereof the following:

“or (5) paid as a weekly benefit for unemployment up to but not

in excess of the amount provided by the employment security law, it being the intention of this provision to exempt that amount whether paid from a fund or account in the federal or territorial treasury or paid by an employer or by a trust or other means provided by an employer."

This section shall apply to payments made in 1956 and thereafter.

SECTION 14. Chapter 120 of the Revised Laws of Hawaii 1955, is amended by inserting therein a new section 120-7.1 to read as follows:

**"Sec. 120-7.1. Liability of officers.** In addition to the liability imposed by section 120-7, if any employer which is a corporation fails, neglects, or refuses to deduct and withhold from the compensation paid to any employee, or to pay over, the amount of the tax imposed by this chapter, any officer of such corporation who as such officer is under a duty to deduct and withhold or to pay over, the amount of the tax imposed by this chapter, and who wilfully fails to perform such duty, shall be liable to the Territory for the amount of said tax. Said liability may be assessed and collected in the same manner as the liability imposed by section 120-7; provided, further, that two or more officers may be assessed under this section jointly or in the alternative, but the tax shall be collected only once with respect to the same compensation. The issuance or allowance of any certificate issued or allowed under the provisions of section 172-135 shall not discharge the liability hereby imposed."

SECTION 15. Section 120-19 of chapter 120, Revised Laws of Hawaii 1955, is amended by amending clause (3) of subsection (a) to read as follows:

"(3) that application for such refund was filed within five years after the amount to be refunded was paid to the Territory."

SECTION 16. Section 121-7 of chapter 121, Revised Laws of Hawaii 1955, is amended by changing to a comma the semicolon at the end of subsection (h), and by inserting after the comma the following:

"or paid as a weekly benefit for unemployment up to but not in excess of the amount provided by the employment security law (it being the intention of this provision to exempt that amount whether paid from a fund or account in the federal or territorial treasury or paid by an employer or by a trust or other means provided by an employer);".

This section shall apply to payments made in 1956 and thereafter.

SECTION 17. Section 121-10 of chapter 121, Revised Laws of Hawaii 1955, is amended by amending subsection (b) in the following respects:

(a) By deleting therefrom the words "or gifts".

(b) By deleting therefrom the words "and where no part of any contribution so received in the Territory", and inserting in lieu thereof the following:

"and where no part of the contributions".

(c) By changing the period at the end of the subsection to a semicolon, and by adding after the semicolon the following:

“provided, further, that the word ‘contribution’ as used in this section includes a gift.”

This section 17 shall apply to all taxable years as to which the computation of income taxes is not barred by section 121-34 of the Revised Laws of Hawaii 1955.

**SECTION 18. Section 121-13** of chapter 121, Revised Laws of Hawaii 1955, is amended by amending subsection (a) thereof to read as follows:

“(a) Amounts expended as dues to private or social clubs or fraternal organizations.”

This section 18 shall apply beginning with taxable years commencing in 1957.

**SECTION 19. Section 121-25** of chapter 121, Revised Laws of Hawaii 1955, is amended by amending the second sentence thereof to read as follows:

“The return shall be authenticated by the signature of the president, vice-president, treasurer or other principal officer of the corporation under the penalties provided by section 115-38.”

**SECTION 20. Section 125-1** of chapter 125, Revised Laws of Hawaii 1955, is hereby amended by inserting after the definition of “Retail price” a new paragraph to read as follows:

“‘Wholesale price’, in addition to any other meaning of the term, means in the case of a tax upon the use of tobacco products, or upon a sale not made at wholesale, (a) if made by a person who during the month preceding the accrual of the tax made substantial sales to retailers of like tobacco products, the average price of such sales, and (b) if made by any other person, the average price of sales to retailers of like tobacco products made by other taxpayers in the same county during the month preceding the accrual of the tax.”

**SECTION 21. Section 125-3** of chapter 125, Revised Laws of Hawaii 1955, is amended as follows:

(a) By inserting after the word “imposed” and before the comma in the third line thereof the following:

“upon the sale or use of tobacco products”.

(b) By inserting after the word “tobacco”, which appears in the fourth line of the section, the word “products”.

(c) By inserting a comma in the fifth line of the section, following the words “sold by him”, and adding after the comma the following: “whether or not sold at wholesale,”.

(d) By deleting the remainder of the sentence following the inserted words “whether or not sold at wholesale” and by deleting all of the second sentence and inserting in lieu thereof the following:

“or if not sold then at the same rate upon the use by him;”.

This section 21 shall take effect on July 1, 1957.



**SECTION 22.** **Section 126-4** of chapter 126, Revised Laws of Hawaii 1955, is amended by deleting the word and figure "March 20" and inserting in lieu thereof the following:

"April 20".

**SECTION 23.** This Act shall take effect on its approval, except as otherwise provided herein.

(Approved May 1, 1957.) **S.B. 333, Act 34.**

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### ACT 35

An Act Establishing a Land Study Program at the University of Hawaii and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Creation of land study program; general purpose.** There shall be a land study program at the University of Hawaii. The program shall develop, assemble, coordinate and interpret data on the characteristics and utilization of land throughout the Territory to the end that the highest and best use of those lands may be ascertained.

**SECTION 2. More specific purposes.** The program shall undertake the following functions:

(a) to collect existing data on land, develop additional data, and integrate such data into a basic land classification study of the entire Territory;

(b) to study current problems involving land use in the Territory as these problems arise;

(c) to keep informed of changes in technology and in economic conditions affecting land use so as to be able to recommend alternative uses for land;

(d) to supply the governor, the legislature, and other territorial and county agencies with data and impartial advice on land use; and

(e) to make its findings generally known through its publications and, to the extent that its facilities permit, by supplying additional information on land use in reply to inquiries received from residents of Hawaii or others.

**SECTION 3. Organization and staff.** The land study program shall be in the charge of a director appointed by the president of the university with the approval of the board of regents; he shall serve at the pleasure of the president. The director shall appoint such professional, technical and clerical assistants as may be necessary and as shall be provided for under appropriations made for the program. The president of the university may assign other members of the university staff to work with the program.

**SECTION 4. Cooperation with other agencies; contracts.** The university may cooperate with other public agencies in furthering the purpose of the land study program. The director may, with the approval of the president of the university, contract with other agencies, public

UNIVERSITY LAND STUDY PROGRAM  
TRAFFIC SCHOOL SUBSTITUTE PENALTY  
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or private, to conduct land surveys or to carry out other portions of the program.

**SECTION 5. Appropriation.** There is hereby appropriated to the University of Hawaii out of general revenues not otherwise appropriated the sum of \$150,000, or so much thereof as may be necessary for the operation of the land study program during the period between the effective date of this Act and June 30, 1959. The appropriation is in addition to any other which the university may receive.

**SECTION 6. Effective date.** This Act shall take effect on its approval.

(Approved May 1, 1957.) **S.B. 8, Act 35.**

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**ACT 36**

An Act Relating to Criminal Procedure in the District Courts and Amending Section 257-12 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Section 257-12** of the Revised Laws of Hawaii 1955 is hereby amended by removing the period at the end thereof and adding the following: "or his attendance at a traffic course or school prescribed by the magistrate."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 1, 1957.) **H.B. 41, Act 36.**

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**ACT 37**

An Act Relating to the Criminal Jurisdiction of the Several District Courts of the Territory and Amending Section 216-7 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Sec. 216-7** of the Revised Laws of Hawaii 1955 is hereby amended by amending the last sentence thereof, commencing on line 8, to read as follows:

"In any case cognizable by a district magistrate as aforesaid in which the accused has the right to a trial by jury in the first instance, the district magistrate, upon demand by the accused, for such trial by jury, shall not exercise jurisdiction over such case, but shall examine and discharge or commit for trial the accused as provided by law, but if in any such case the accused does not demand a trial by jury on the date of arraignment or within ten days thereafter, the district magistrate may exercise jurisdiction over the same, subject to the right of appeal as provided by law."

**SECTION 2.** This Act shall take effect on July 1, 1957.

(Approved May 1, 1957.) **H.B. 45, Act 37.**

## ACT 38

An Act to Amend Chapter 144 of the Revised Laws of Hawaii 1955, Relating to General Provisions Affecting Hawaii, Kauai and Maui, By Amending Sections 144-34, 144-35 and 144-36, Thereof, Relating to Bills and Resolutions.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 144 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(1) By amending **Section 144-34**, thereof by deleting the words "or resolution" appearing in line 5 of said section.

(2) By amending Section 144-35 thereof to read as follows:

**"Sec. 144-35. Publication of bills and amendments of ordinances.** Unless otherwise provided by law, every legislative act for any specific improvement, or involving the appropriation, lease or disposition of public property, or providing for the imposition of a new duty or penalty shall be by bill. All other legislative acts, unless otherwise specifically provided, shall be by resolutions adopted upon one reading and without publication. Every bill shall, after its introduction, be published in a newspaper, with ayes and noes, at least once, Sundays and legal holidays excepted, before final action on the same. If such bill is substantially amended, the bill providing for such amendment shall be published for a like period before final action thereon. The publication following an amendment shall contain simply a statement of the title, number and date of the amended bill, the nature of the amendment and a reference to copies of the bill as amended, which shall be on file in the office of the county clerk.

No ordinance or resolution, requiring more than one reading for its adoption, shall be revised or amended by reference to its title, but the same, the section, subsection or paragraph or subparagraph thereof revised or amended shall be re-enacted at length as revised or amended; provided that when the amendment consists of adding new sections, subsections, paragraphs, or subparagraphs, it shall be sufficient to enact the new matter alone if reference thereto is made in the title. All ordinances or such resolutions which have been duly enacted and not repealed may be compiled, consolidated, revised, indexed, including such restatement and substantive change as may be necessary in the interest of clarity, and arranged as a comprehensive ordinance code, which may be adopted by reference by the enactment of an ordinance for that purpose. Any code or portions thereof which may have been adopted or compiled as an ordinance or in the form of a book or pamphlet, covering any subject matter over which the board has power, may be adopted by reference thereto by the enactment of an ordinance for that purpose. Such code or portions thereof to be adopted need not be published in the manner required for ordinances, but not less than three copies thereof shall be filed for

use and examination by the public in the office of the county clerk prior to the adoption thereof.

All ordinances shall be published once in a daily newspaper after enactment. The publication may contain simply a statement of the title, number and date of introduction of such ordinance, a brief statement of the nature of the ordinance and a reference to copies of the ordinance which shall be on file in the office of the county clerk.

Nothing contained in this section shall prohibit the adoption of resolutions upon one reading for the purpose of regulating, marking and adjusting the movement of traffic and pedestrians, in connection with traffic ordinances, and such resolutions need not be published; provided, that no person shall be punished for violating such resolutions so adopted unless the regulation, mark or adjustment sought to be affected is clearly indicated in the places where effective by legible markers or signs."

(3) By amending **Section 144-36** thereof by deleting the words "or resolution" appearing in lines 5 and 11 of said section.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 1, 1957.) **H.B. 987, Act 38.**

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### ACT 39

An Act Relating to Mortgages to a Corporation of Public Land for Which a Certificate of Occupation, Right of Purchase Lease, Cash Freehold Agreement or Special Homestead Agreement Has Been Issued.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Notwithstanding the provisions of subsection (g) of section 73 of the Hawaiian Organic Act, public land for which a certificate of occupation, right of purchase lease, cash freehold agreement or special homestead agreement has been issued after May 27, 1910 may be mortgaged to a corporation with the written consent of the commissioner of public lands, without necessity of such consent by the governor.

**SECTION 2.** This Act shall take effect upon its approval by the Congress or upon enactment by the Congress of legislation which would make legislation such as this Act valid without approval by the Congress.

(Approved May 1, 1957.) **H.B. 340, Act 39.**

### ACT 40

An Act Relating to Common Nuisance and Amending Section 267-7 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 267-7 of the Revised Laws of Hawaii 1955 is hereby amended by adding after the words "district magistrate" as they appear in line 7 thereof, the punctuation and words ", chief of police, or other officer as designated by county ordinance,".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 1, 1957.) H.B. 47, Act 40.

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### ACT 41

An Act Assenting to the Provisions of the Acts of Congress to Provide That the United States Shall Aid the States in Wildlife and Fish Restoration and Management Projects, and Relating to the Expenditure of License Fees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Territory of Hawaii hereby assents to the provisions of the Pittman-Robertson Federal Aid in Wildlife Restoration Act (50 Stat. 917, 16 U.S.C. 6991) as amended, and the Dingell-Johnson Federal Aid in Fish Restoration Act (64 Stat. 430, 16 U.S.C. 777) and the division of fish and game of the board of commissioners of agriculture and forestry is hereby authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of cooperative fish and wildlife restoration and management projects, as defined in said Acts of Congress in compliance with said Acts and rules and regulations promulgated by the secretary of the interior thereunder; and no funds accruing to the Territory of Hawaii from license fees paid by sport fishermen and hunters shall be diverted for any other purpose than the administration of the division of fish and game and for the protection, propagation, preservation and investigation of fish and game.

SECTION 2. All laws and parts of laws in conflict herewith are repealed.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 1, 1957.) H.B. 503, Act. 41.

## ACT 42

An Act Relating to Parks, Playgrounds and Recreation Superintendent and Employees of the County of Maui, and Amending Sections 3-61 and 148-33 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 3-61** of the Revised Laws of Hawaii 1955 is hereby amended by amending paragraph (b) thereof to read as follows:

“(b) Positions of officers elected by public vote; positions of heads of departments whose appointments are made by the county chairman with the approval of the board of supervisors; position of manager of the board of water supply and position of chief of police; provided that the superintendent of parks, playgrounds and recreation of the county of Maui shall not be exempted from the provisions of this part;”

SECTION 2. **Section 148-33** of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

“**Sec. 148-33. Appointment of employees.** The board of supervisors shall appoint, subject to the provisions of chapters 3 and 4, a full time superintendent and such other employees as may be necessary and fix their compensation; provided, however, the superintendent who shall be in service on the effective date of this Act shall be continued in the service of the county of Maui and receive permanent status in civil service without examination, and his compensation shall not be reduced below the amount of salary received by him on such date.”

SECTION 3. This Act shall take effect upon its approval.

(Approved May 1, 1957.) H.B. 888, Act 42.

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## ACT 43

An Act Relating to the Membership of Cafeteria Managers and Cafeteria Workers in the Employees' Retirement System of the Territory of Hawaii, and Amending Chapter 6, Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 6-20**, Revised Laws of Hawaii 1955 is hereby further amended as follows:

(a) By inserting between the words and punctuation “public schools,” and the word “apprentices” in the third line of the definition of “Employee”, the following words and punctuation:

“cafeteria managers and cafeteria workers,”.

(b) By adding after the last sentence of the definition of “Service”, the following words:

“Cafeteria managers and cafeteria workers shall be considered as

CAFETERIA EMPLOYEES, RETIREMENT SYSTEM  
DEDUCTION OF UNION DUES  
SANITARY SEWERAGE SYSTEMS ASSESSMENT

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paid by the Territory, regardless of the source of the funds from which they are paid."

SECTION 2. Notwithstanding any other provision of law, cafeteria managers and cafeteria workers may file with the board of trustees of the employees' retirement system, on a form approved by the board, a statement of all service rendered as a cafeteria manager or cafeteria worker or any other position of employee prior to the date of membership which is not otherwise creditable and for which he claims membership service and for which he agrees to have additional deductions made from his compensation in the manner set forth in Section 6-35, Revised Laws of Hawaii 1955.

SECTION 3. This Act shall take effect upon approval.

(Approved May 1, 1957.) H.B. 902, Act 43.

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**ACT 44**

An Act to Amend Section 34-31 of the Revised Laws of Hawaii 1955, Relating to Payroll Deductions for Government Employees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 34-31 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"**Sec. 34-31. Auditors to make certain deductions, when.** The auditors of the Territory and its political subdivisions shall, if so requested in writing by any employee or officer of the Territory or of any county, deduct from the compensation to such employee or officer for his territorial or county employment membership dues and group insurance premiums to any union or organization representing teachers, territorial, or county employees. After making such deductions, the auditor shall pay the money deducted to each organization for the account of such officer or employee."

SECTION 2. This Act shall take effect on July 1, 1957.

(Became law without signature of the Governor on May 1, 1957.) H.B. 133, Act 44.

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**ACT 45**

An Act Amending Section 153-2 of the Revised Laws of Hawaii 1955, Relating to Sanitary Sewerage Systems.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 153-2** of the Revised Laws of Hawaii 1955 is hereby amended by substituting the figure "8" for the figure "6" included in said section.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 2, 1957.) H.B. 1136, Act 45.

**ACT 46**

An Act Relating to the Disposal of Government Records and the Composition of the Disposal Committee and Amending Section 7-8 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 7-8 of the Revised Laws of Hawaii 1955 is amended by substituting for the second complete sentence thereof the following:

"The archivist shall make recommendations to a disposal committee for the disposal of such records stating whether such records should be retained by the office, department or bureau, be transferred to the public archives, the University of Hawaii, the Hawaiian Historical Society, or other agency, or be destroyed. The disposal committee shall consist of the secretary of the Territory of Hawaii, the attorney general (or his duly designated representative) and the auditor, and shall have full power of disposal of all records submitted for such purpose."

**SECTION 2.** The heading of Section 7-8, Revised Laws of Hawaii 1955, is amended to read as follows:

**"Sec. 7-8. Disposal of government records generally; disposal committee."**

**SECTION 3.** This act shall take effect upon its approval.

(Approved May 2, 1957.) **H.B. 745, Act 46.**

**ACT 47**

An Act Relating to Civil Service Examinations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 3-21 of the Revised Laws of Hawaii 1955 is hereby further amended by adding a new paragraph to subsection (d) thereof, reading as follows:

**"Unassembled examinations.** Unassembled examinations, consisting solely of a rating of training and experience, may be given as examinations for higher level positions in the supervisory, administrative, fiscal and professional classes, particularly in cases where the applicants are few, rank order is relatively unimportant, construction of written test material would be costly or time-consuming and applicants meet the qualifications requirements based on training and experience."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 2, 1957.) **S.B. 255, Act 47.**



## ACT 48

An Act to Amend Chapter 170 of the Revised Laws of Hawaii 1955, Relating to Real Estate Brokers and Salesmen.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 170-7** of Chapter 170 of the Revised Laws of Hawaii 1955, is hereby amended by adding thereto a new paragraph to read as follows:

“(g) To any person unless he shall file with the commission a bond as required by Section 170-7.5.”

SECTION 2. Chapter 170 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new paragraph to read as follows:

“**Sec. 170-7.5. Bond.** Each broker and salesman licensed hereunder shall file and maintain with the commission a bond in the penal sum of \$2,500.00, issued by a surety company authorized to do business in the Territory of Hawaii, and running to the Territory of Hawaii. The bond shall be conditioned that the broker or salesman will faithfully, promptly, and truly account and pay over to all persons to or for whom he may sell, lease or otherwise deal in property all sums of money that may properly be due them. In addition to any other remedy, every person sustaining any damage resulting from a breach of the conditions of said bond may sue the surety for the recovery of any damages sustained by such person. The liability of the surety shall not exceed \$2,500.00 for each licensee. The bond shall be continuous in form and remain in full force and effect and shall run concurrently with the license period and for any renewals thereof, unless terminated or cancelled by the surety. Such termination or cancellation shall not be effective, however, unless notice thereof is delivered by the surety to the commission at least 30 days prior to the date of termination or cancellation. The commission shall forthwith give notice thereof to the broker or salesman affected by such termination or cancellation, which notice shall be by registered or certified mail, with request for return receipt, and shall be addressed to the licensees at the addresses shown on the records of the commission. The license of any licensee shall be suspended upon termination or cancellation of the bond, unless prior thereto, a new bond has been filed with the commission. The form of the bond and sufficiency of the surety shall be approved by the commission.”

SECTION 3. This Act shall take effect upon its approval; provided, however, that brokers who are licensed prior to the effective date of this Act shall not be required to file their bonds until January 1, 1958.

(Approved May 2, 1957.) **H.B. 545, Act 48.**

## ACT 49

An Act Amending Sections 353-14, 353-15, and 353-18 of Chapter 353 of the Revised Laws of Hawaii 1955, Relating to the Hawaii National Guard.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 353-14 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Sec. 353-14. Staff for military department; organization. (a) Staff for military department.** The adjutant general shall have a military administrative executive who shall have authority to act for and in the place of the adjutant general during his absence or disability, and such other necessary officers and employees as may be required to operate the military department and to perform the labor and custodial services required for the maintenance and operation of armories, rifle ranges and other military installations. Salaries of civilian employees of the military department shall be payable out of territorial appropriations in accordance with the provisions of chapter 4, Revised Laws of Hawaii 1955, or as otherwise prescribed.

**(b) Organization.** The headquarters of the Hawaii National Guard shall be composed of an army national guard department, which shall include a selective service section, and an air national guard department, with such officers, warrant officers and enlisted men, in the grades and branches of service as may be authorized by the secretaries of the army and air force. The department of the army section and the department of the air force section shall each be commanded by an assistant adjutant general, who shall, while holding such office, have the grade of no higher than a brigadier general; provided, however, that such assistant adjutants general, when in the full time employment of the Military Department, shall receive the pay and allowance no higher than the pay and allowance of a colonel as provided in current Department of the Army and Department of the Air Force regulations."

SECTION 2. **Section 353-15** of the Revised Laws of Hawaii 1955, is hereby amended by substituting a comma for the period after the word "governor" in the third line of the first paragraph thereof and inserting immediately after such punctuation the following: "and shall be the commanding general of the Hawaii National Guard."

SECTION 3. **Section 353-18** of the Revised Laws of Hawaii 1955 is hereby further amended by substituting a comma for the period after the word "age" in the fourth line thereof and inserting immediately after such punctuation the following phrase:

"except where the policy of the United States army or air force permits appointments at a lower age in which case the lower age so permitted shall govern."

SECTION 4. This Act shall take effect upon its approval.

(Approved May 2, 1957.) S.B. 417, Act 49.

**ACT 50**

An Act Repealing Section 18-14 of the Revised Laws of Hawaii 1955,  
Relating to Bees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 18-14 of the Revised Laws of Hawaii 1955, is hereby repealed.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 2, 1957.) H.B. 490, Act 50.

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**ACT 51**

An Act Relating to Promotions of Public Officers and Employees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 3-21 (e) of the Revised Laws of Hawaii 1955, is hereby amended by amending the third and fourth paragraphs thereof to read as follows:

"An appointing authority may fill a vacant position in his department by promoting any regular employee, without examination, to the next higher class within the same series or related series as that occupied by such employee if such employee meets the minimum qualification requirements of the class to which he is to be promoted and if there are not more than four other employees in the department who also meet such qualification requirements. An employee in any unskilled (non-competitive) class may be so promoted to a skilled labor or trade (competitive) class only upon his having successfully proven his ability to do the work through the means of a performance test and having completed not less than one year of actual service as such skilled laborer or tradesman. This paragraph shall not apply to any position or class if the application thereof to such position or class will jeopardize the receipt by the Territory or any county of any federal grant in aid or other federal allotment of money.

**SECTION 2.** Section 3-21 (e) of the Revised Laws of Hawaii 1955, is further amended by deleting the words "two years" appearing in the last paragraph thereof and substituting therefor, the words "one year".

**SECTION 3.** This Act shall take effect upon its approval.

(Approved May 2, 1957.) S.B. 159, Act 51.

## ACT 52

An Act to Amend Chapter 28 of the Revised Laws of Hawaii 1955,  
Relating to the Hawaii Soil Conservation Committee.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 28-3 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Sec. 28-3. Hawaii soil conservation committee; membership.**

There shall be, as an agency of the Territory, the Hawaii soil conservation committee. The committee shall be composed of the following members: president of the board of commissioners of agriculture and forestry, who shall be its chairman, the director of the Hawaii experiment station, the director of the agricultural extension division of the University of Hawaii, and two members who are actively engaged in farming to be appointed by the governor in the manner prescribed by Section 80 of the Organic Act. The committee may invite the Secretary of Agriculture of the United States of America to appoint one local representative to serve as an additional member of the committee, ex officio. The term of the two farmer members shall be for 2 years, but that for the first 2 members appointed, the term of one member shall expire on December 31, 1958 and the term of the other shall expire on December 31, 1959. Any vacancy shall be filled by appointment for the remainder of the unexpired term."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 2, 1957.) **H.B. 398, Act 52.**

## ACT 53

An Act to Amend Section 107-7 of the Revised Laws of Hawaii 1955,  
Relating to County Agents of the Department of Public Welfare and  
the Maintenance of Their Offices.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 107-7 of the Revised Laws of Hawaii 1955, is hereby amended to read:

**"Sec. 107-7. County administrators.** The director, pursuant to Sec. 107-3, shall appoint one administrator each for the city and county of Honolulu and the counties of Hawaii, Maui and Kauai. Such county administrator shall maintain his office in the county for which he is appointed and shall be directly responsible to such persons as the director shall designate in conformity with law and federal requirements."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 3, 1957.) **S.B. 470, Act 53.**

**ACT 54**

An Act Amending Section 46-25.1, Revised Laws of Hawaii 1955, Relating to the Funds for the Operation of the Clinic for the Treatment of Alcoholism.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The second paragraph of **section 46-25.1** of the Revised Laws of Hawaii 1955, is hereby amended by deleting the words "five per cent", and substituting in lieu thereof the words "ten per cent".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 3, 1957.) **H.B. 357, Act 54.**

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**ACT 55**

An Act Relating to Workmen's Compensation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 97-27, Chapter 97, Revised Laws of Hawaii 1955, is hereby amended to read:

**"Sec. 97-27. Subsequent injuries which would increase disability.** If an employee receives an injury which of itself would cause only permanent partial disability but which, combined with a previous disability, results in an increase in a permanent partial or in permanent total disability, the employer shall be liable only for compensation for the disability caused by the subsequent injury. In addition to such compensation for such further permanent partial disability and after the cessation of payments for the prescribed period of weeks, the employee shall be paid weekly out of the special compensation fund the remainder of the compensation that would be due for such increased permanent partial disability or for permanent total disability, payments to be made by orders of the director drawn on the treasurer of the Territory."

SECTION 2. This Act shall be effective from and after July 1, 1957.

(Approved May 3, 1957.) **S.B. 816, Act 55.**

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**ACT 56**

An Act Relating to Vacations of Public Officers and Employees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The first sentence of **section 5-30** of the Revised Laws of Hawaii 1955, is amended to read:

"With the exception of school teachers and school principals employed in the public schools of the Territory; the instructional staff of the University of Hawaii; members of the fire department of the Territory and several counties; and temporary and pro-

visional employees and contractual employees (meaning persons employed on a contractual basis pursuant to paragraph (b), (c) and (n) of section 3-20, paragraph (g), (h) and (i) of section 3-51 and paragraph (g), (h) and (i) of section 3-61), of the Territory and the several counties, all officers and employees of the Territory or of the several counties and all full time elected and appointive officers and employees of the Territory and the several counties shall be entitled to and granted a vacation with pay each calendar year calculated at the rate of one and three-quarters working days for each month of service. A provisional employee, as such, shall not be entitled to a vacation with pay, but he shall be entitled to earn and accrue vacation allowances during the term of his provisional appointment, and if upon the termination of his provisional appointment he receives a probationary or permanent appointment in the same position, he shall be credited with the allowances earned and accrued during the provisional appointment, but if he does not become such probationary or regular employee the vacation allowances shall be automatically forfeited."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 6, 1957.) S.B. 170, Act 56.

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### ACT 57

An Act Relating to the Pensions of Patient Employees or Patient Laborers at Hospitals, Settlement and Places Maintained for the Treatment and Care of Hansen's Disease.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 50-25 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Sec. 50-25. Pensions for patient employees at hospitals, etc.**  
 All patient employees or patient laborers at every hospital, settlement and place maintained for the treatment and care of persons affected with Hansen's disease shall be entitled, upon retirement after twenty years or more service with the board of health, at such hospital, settlement or place, to a pension, payable monthly, in an amount which shall be equal to sixty-six and two-thirds per cent of the wage or salary which the patient was receiving at the time of retirement, or to a pension, payable monthly, in an amount which shall be equal to sixty-six and two-thirds per cent of the average wage or salary which the patient employee was receiving during his last twelve months of employment at such hospital, settlement or place, or whichever is higher."

SECTION 2. This Act shall take effect on its approval.

(Approved May 6, 1957.) S.B. 202, Act 57.

**ACT 58**

An Act to Amend Chapter 359 of the Revised Laws of Hawaii 1955, Civil Defense and Emergency Act, by Amending Section 359-32, Relating to the Expiration Date Thereof.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 359 of the Revised Laws of Hawaii 1955 is hereby amended by amending **section 359-32** thereof by deleting the date "June 30, 1957" which appears in line 4 thereof and substituting therefor the date "June 30, 1959".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 6, 1957.) **S.B. 298, Act 58.**

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**ACT 59**

An Act Relating to the Development and Administration of a Hospital and Medical Facilities Construction Program, with Methods of Administration and Control.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby added to title 7 of the Revised Laws of Hawaii 1955 a new chapter 48A to read as follows:

**CHAPTER 48A. HOSPITAL AND MEDICAL FACILITIES  
CONSTRUCTION.**

**Sec. 48A-1. Title.** This Act may be cited as the 'Territorial Hospital and Medical Facilities Survey and Construction Act'.

**Sec. 48A-2. Definitions.** As used in this Act:

- a. 'Board' means the board of health of the Territory.
- b. 'The Federal Act' means Title VI of the Public Health Service Act (42 U.S.C. 291 et seq.) as now and hereafter amended.
- c. 'The surgeon general' means the surgeon general of the United States public health service.
- d. 'Hospital' includes public health centers and general, tuberculosis, mental, chronic disease, and other types of hospitals, and related facilities, such as laboratories, outpatient departments, nurses' home and training facilities, and central service facilities operated in connection with hospitals, but does not include any hospital furnishing primarily domiciliary care.
- e. 'Public health center' means a publicly-owned facility for the provision of public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with public health centers.
- f. 'Non-profit hospital' and 'non-profit medical facility' means any hospital or medical facility owned and operated by

one or more non-profit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

g. 'Medical facilities' means diagnostic or diagnostic and treatment centers, rehabilitation facilities and nursing homes as those terms are defined in the Federal Act, and such other medical facilities for which federal aid may be authorized under the Federal Act.

h. 'Division' means the division of hospitals and medical care of the board of health.

i. 'Fund' means the hospital and medical facilities fund established by this Act.

j. 'Commission' means the territorial advisory commission for hospitals and medical care.

**Sec. 48A-3. Administration; division of hospitals and medical care.** The division of hospitals and medical care shall be administered by a full-time salaried director under the supervision and direction of the board. The board through such division and commission shall constitute the sole agency of the Territory for the purpose of:

a. Making an inventory of existing hospitals and medical facilities, surveying the need for construction of hospitals and medical facilities, and developing a program of construction as provided in this Act; and

b. Developing and administering a territorial plan for the construction of public and other non-profit hospitals and medical facilities as provided in this Act.

**Sec. 48A-4. General powers and duties.** In carrying out the purposes of this Act, the board is authorized and directed:

a. To require such reports, make such inspections and investigations and prescribe such rules and regulations as are deemed necessary; administrative rules and regulations shall be excepted from the operation of section 7-30 of the Revised Laws of Hawaii 1955.

b. To provide such methods of administration, appoint a director and other personnel of the division and take such other action as may be necessary to comply with the requirements of the Federal Act and the regulations thereunder;

c. To procure in its discretion the temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

d. To the extent that it considers desirable to effectuate the purposes of this Act, to enter into agreements for the utilization of the facilities and services of other departments, agencies, institutions, public or private;

e. To accept on behalf of the Territory and to deposit with



the territorial treasurer any grant, gift or contribution made to assist in meeting the cost of carrying out the purposes of this Act, and upon warrants of the auditor, based on vouchers of the board, to expend the same for such purposes;

f. To make an annual report to the governor on activities and expenditures pursuant to this Act, including recommendations for such additional legislation as the board considers appropriate to furnish adequate hospital and medical facilities to the people of this Territory.

g. To do all other things on behalf of the Territory necessary to obtain full benefits under the Federal Act.

**Sec. 48A-5. Advice and assistance.** The board shall receive the advice and assistance of the territorial commission for hospitals and medical care in discharging its duties and exercising its powers under this Act. Such advisory commission shall meet as often as the board deems necessary, but not less than once each year.

**Sec. 48A-6. Survey and planning activities.** The commission is authorized and directed to make an inventory of existing hospitals and medical facilities, including public, non-profit and proprietary hospitals and medical facilities, to survey the need for construction of hospitals and medical facilities and, on the basis of such inventory and survey, to develop a program for the construction of such public and other non-profit hospitals and medical facilities as will, in conjunction with existing facilities, afford the necessary physical facilities for furnishing adequate hospital and medical facility services to all the people of the Territory.

**48A-7. Construction program.** The construction program shall provide, in accordance with regulations prescribed under the Federal Act, for adequate hospital and medical facilities for the people residing in the Territory and insofar as possible shall provide for their distribution throughout the Territory in such manner as to make all types of hospital and medical facility services reasonably accessible to all persons in the Territory.

**Sec. 48A-8. Application for federal funds for survey and planning; expenditure.** The board is authorized to make application to the surgeon general for federal funds to assist in carrying out the survey and planning activities herein provided. Such funds shall be deposited in the territorial treasury and shall be available to the board upon warrants issued by the auditor based on vouchers of the board for expenditure for the survey and planning program. Any such funds received and not expended for such purposes shall be repaid to the treasury of the United States.

**Sec. 48A-9. Territorial plan.** The board shall prepare and submit to the surgeon general a territorial plan which shall include the hospital and medical facilities construction program developed under this Act and which shall provide for the establishment, administration and operation of hospital and medical facilities construction activities in accordance with the requirements of the

Federal Act and regulations thereunder. The board shall, prior to the submission of such plan to the surgeon general, give adequate publicity to a general description of all the provisions proposed to be included therein. After approval of the plan by the surgeon general, the board shall make the plan, or a copy thereof, available upon request to all interested persons or organizations. The board shall from time to time review the construction program and submit to the surgeon general any modifications thereof which it may find necessary and may submit to the surgeon general such modifications of the territorial plan, not inconsistent with the requirements of the Federal Act, as it may deem advisable.

**Sec. 48A-10. Minimum standards for hospital and medical facilities maintenance and operation.** The commission shall by regulation prescribe minimum standards for the maintenance and operation of hospitals and medical facilities.

**Sec. 48A-11. Priority of projects.** The territorial plan as established by the commission shall set forth the relative need for the several projects included in the construction program determined in accordance with regulations prescribed pursuant to the Federal Act, and provide for the construction, insofar as financial resources available therefor and for maintenance and operation make possible, in the order of such relative need.

**Sec. 48A-12. Construction projects; applications.** Applications for hospital and medical facilities construction projects for which federal funds are requested shall be submitted to the board and may be submitted by the Territory or any political subdivision thereof or by any public or other non-profit agency authorized to construct and operate a hospital or a medical facility, provided that no application for a diagnostic or treatment center shall be approved unless the applicant is (1) the Territory, a political subdivision, or public agency, or (2) a corporation or association which owns and operates a non-profit hospital. Each application for a construction project shall conform to federal and territorial requirements.

**Sec. 48A-13. Consideration and forwarding of applications.** The board shall afford to every applicant for a construction project an opportunity for a fair hearing. If the board, after affording reasonable opportunity for development and presentation of applications in the order of relative need, finds that a project application complies with the requirements of section 48A-12 of this Act and is otherwise in conformity with the territorial plan, it shall approve such application and shall recommend and forward it to the surgeon general.

**Sec. 48A-14. Inspection of projects.** From time to time the board shall inspect each construction project approved by the surgeon general, and, if the inspection so warrants, the board shall certify to the surgeon general that work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment of federal funds is due to the applicant.

**Sec. 48A-15. Hospital and medical facilities construction fund.**

The board is hereby authorized to receive federal funds in behalf of, and transmit them to, such applicants. There is hereby established, separate and apart from all other public moneys and funds of this Territory, a hospital and medical facilities construction fund. Money received from the federal government for a construction project approved by the surgeon general shall be deposited to the credit of this fund and shall be used solely for payments due applicants for work performed, or purchases made, in carrying out approved projects. Vouchers for all payments from the fund shall bear the signature of the president of the board of health or his duly authorized agent for such purpose.

**Sec. 48A-16. Territorial advisory commission for hospitals and medical care.** There shall be a territorial advisory commission for hospitals and medical care to consist of ten members who shall be appointed by the governor in the manner provided by section 80 of the Organic Act, and an eleventh member who shall be the person then holding the position of director of public welfare of the Territory.

The majority of the membership of the commission shall consist of doctors of medicine, hospital administrators, and representatives from allied professions. There shall be at least one representative of a non-governmental organization or territorial agency concerned with physical rehabilitation. At least four of the total membership of the eleven members of the commission shall be doctors of medicine licensed to practice in the Territory of Hawaii. Each of the counties, except the county of Kalawao, shall be represented upon said commission by the appointment of a member who is a resident of such county.

The term of office of the appointive members of the commission shall be four (4) years from and after the date of their respective appointments. Any person appointed to fill a vacancy on said commission occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term."

**SECTION 2. Severability clause.** If this Act or any portion thereof, or the application thereof to any person or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, the remainder of this Act, or the application of this Act or such portion to other persons and circumstances, shall not be affected, and to this end the provisions of this Act are declared to be severable.

**SECTION 3. Repeal.** All Acts or parts of Acts or executive orders which are inconsistent with the provisions of this Act are hereby repealed or amended to conform herewith.

**SECTION 4.** The present members of the territorial advisory commission for hospitals and medical care shall continue in office until the expiration of their respective terms, unless vacancies in their respective offices occur sooner by reason of resignation, death, or other cause.

SECTION 5. Effective date. This Act shall take effect upon its approval.

(Approved May 6, 1957.) **S.B. 365, Act 59.**

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**ACT 60**

An Act Relating to the Control and Abatement of Air Pollution by the Board of Health, Prescribing Penalties.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. This Act shall be known and may be cited as the "Air Pollution Control Act."

SECTION 2. The legislature finds and declares that the people of the Territory of Hawaii have a primary interest in atmospheric purity and freedom of the air from any air contaminants; and that there is pollution of the atmosphere in portions of the Territory and a threat of greater pollution which is and may become increasingly detrimental to the public peace, health, safety and welfare of the people of the Territory.

SECTION 3. In interpreting this Act, the following words shall have the following meanings:

"Section" means the air pollution control section established under this Act.

"Board" means the board of health of the Territory of Hawaii.

"Complaint" means any charge, however informal, to or by the board that any person or agency, private or public, is polluting the air, or is violating the provisions of this Act or any rule or regulation of the board in respect thereof.

"Control" and "controlling" include prohibition and prohibiting as related to air pollution.

"Rules or regulations" means any rule or regulation of the board in respect of air pollution, its prohibition or control.

"Air pollution" as used in this Act shall mean the presence in the outdoor atmosphere of substances in quantities which are injurious to human, plant or animal life or to property or which unreasonably interferes with the comfortable enjoyment of life and property throughout the Territory and in such areas of the Territory as shall be affected thereby and excludes all aspects of employer-employee relationship as to health and safety hazards. Such substances include, but are not limited to, smoke, charred paper, dust, soot, grime, carbon, noxious acids, fumes, gases, odors, particulate matter or any combination thereof.

"President" means the president of the board of health.

SECTION 4. The board shall have power, subject to the provisions hereinafter contained, to formulate and promulgate, amend and repeal rules and regulations having the force and effect of law controlling and prohibiting air pollution whether by private persons or agencies, or by governmental agencies throughout the Territory or in such areas of the Territory as shall be affected thereby. Notwithstanding the terms of

section 7-29 of the Revised Laws of Hawaii 1955, or any other law applying to the adoption of rules and regulations, no such rule or regulation, amendment or repeal shall be adopted except after public hearing to be held after 30 days' prior notice thereof by public advertisement of the date, time and place of such hearing, at which opportunity to be heard by the board in respect thereof shall be given to the public. No such rule or regulation, amendment or repeal shall be or become effective until 60 days after the adoption thereof. Any person heard at such public hearing shall be given written notice of the action taken by the board in respect of such rule or regulation.

SECTION 5. Inasmuch as air pollution and the damage arising therefrom is not uniform throughout the Territory, the rules and regulations of the board may designate specific areas for control of air pollution.

SECTION 6. The board shall control air pollution in accordance with any rule or regulation promulgated by it and for this purpose shall have, but shall not be limited to, the following powers:

a. To set up a section of air pollution control to be administered by a full-time salaried section chief, and to delegate and assign to such section and the officers and employees therein any duties or powers granted to the board hereunder, except the power to promulgate rules and regulations, the power to make a determination or finding under sections 12 and 16 hereof of the violation of the terms of this Act or of any rule or regulation promulgated in accordance with its provisions, and the power to institute or conduct legal proceedings;

b. To conduct and supervise research programs for the purpose of determining the causes, effects and hazards of air pollution;

c. To conduct and supervise territory-wide programs of air pollution control education including the preparation and distribution of information relating to air pollution control;

d. To require private persons or agencies or governmental agencies engaged or desiring to engage in operations which result or may result in air pollution to secure a permit prior to installation or operation or continued operation, where such operations were being conducted prior to or on the effective date of this Act; to refuse to issue such permit unless it appears that such operations would be in compliance with the rules or regulations of the board; to require such persons or agencies to submit plans and the filing of reports by such persons or agencies containing such information relating to location, size of outlet, height of outlet, rate and period of emission and composition of effluent, and such other matters relative to air pollution as the board shall prescribe to be filed. The requirement for filing of reports shall be conditional upon either the consent of the person engaged or desiring to engage in operations which may result in air pollution or the direction of the board, which direction may issue only after a hearing upon notice to the person engaged in such operations;

e. To enter and inspect, during reasonable hours, any building or place, except a building designed for and used exclusively for a private residence, for the purpose of investigating an actual or suspected source

of air pollution and ascertaining compliance or non-compliance with any rules and regulations of the board and to make reasonable tests in connection therewith. No confidential information secured pursuant to this section by any official or employee of the board of health within the scope and course of his employment in the control of air pollution shall be disclosed by such official or employee except as it relates directly to air pollution and then only in connection with his official duties and within the scope and course of his employment;

f. To receive or initiate complaints of air pollution, hold hearings in connection with air pollution and institute legal proceedings in the name of the Territory for the control or prevention of air pollution and for the recovery of penalties, in accordance with this Act;

g. To appoint a master or masters to conduct investigations and hearings under the provisions of section 7-27, Revised Laws of Hawaii 1955;

h. With the approval of the governor, to cooperate with, and receive money from, the federal government, or any political subdivision of the Territory, or from private sources for the study and control of air pollution.

SECTION 7. The board may provide, and, from time to time, change, by rule or regulation a schedule of fees not exceeding the estimated cost of issuing permits and inspection pertaining to such issuance to be paid for the issuance of permits. Every person or agency applying for a permit shall pay the fee required by such schedule. Such fees are appropriated to the use of the board for the expenses of the air pollution control section.

SECTION 8. Any officer, employee or agent of the board of health acquiring confidential information from the inspection permitted by subsection e. of section 4 [6] who divulges the same except as authorized in this Act shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars, and shall be subject to an action for damages by any person injured by such disclosure.

SECTION 9. The board may organize a county advisory air pollution control association in any county in which it shall determine that the establishment of such association is advisable to assist it in carrying out the purposes of this Act. A county air pollution control association shall consist of such number of resident members as shall be determined by the board, who shall be appointed by the board and shall serve at the pleasure of the board without compensation but shall be entitled to the necessary expenses incurred in the discharge of their duties. A section officer or employee shall act as secretary of any such association.

SECTION 10. It shall be the duty of county air pollution control associations to study air pollution problems of the county, and advise the board relative thereto.

SECTION 11. All rules or regulations of strictly local application, before they are adopted by the board, shall be submitted to the county air pollution control association (if one shall have been appointed) of the county affected, for discussion and report thereon.

SECTION 12. In case any written complaint is filed with the board,

or the board has cause to believe, that any person is violating any rule or regulation promulgated by the board, the board shall cause a prompt investigation to be made in connection therewith and if the board shall find, after such investigation, that a violation of any rule or regulation of the board exists, it shall immediately endeavor to eliminate any source or cause of air pollution resulting from such violation by conference, conciliation and persuasion.

SECTION 13. In case of the failure to correct or remedy a violation of any rule or regulation of the board, within a reasonable time, by conference, conciliation and persuasion, the board shall cause to be issued and served a written notice, together with the copy of a complaint made by it, or a copy of the complaint made to it, requiring the person so complained against to answer the charges of such complaint at a hearing before the board, or before a master or masters appointed by it, at a time and place to be specified in such notice.

SECTION 14. The respondent to such complaint may file a written answer thereto and may appear at such hearing in person or by representative, with or without counsel, and submit testimony. The testimony taken at the hearing shall be under oath and recorded stenographically, but the parties shall not be bound by technical rules of evidence. True copies of any transcript and of any other record made of at such hearing shall be furnished to the respondent upon request and at his expense.

SECTION 15. Any hearing required by this Act to be held before the board, or before a master or masters appointed by it, shall be held before any three or more members of the board designated by the president, or before such master or masters. Any information as to secret processes or methods of manufacture or production shall not be disclosed in public hearing before the board, insofar as practicable, and shall be kept confidential. The board, at the request of any respondent to a complaint made by it, or to it, pursuant to this Act, shall subpoena and compel the attendance of such witnesses as the respondent may designate and require the production for examination of any books or papers relating to any matter under investigation in any such hearing.

SECTION 16. If, consequent to said hearing, the board shall determine that the person against whom the complaint is made is violating any rule or regulation promulgated by the board, it shall enter its order to that effect and shall fix a reasonable time during which said person shall be required to take such measures as may be necessary to correct such violation and to give periodic progress reports. Any information as to secret processes or methods of manufacture or production revealed by such periodic progress reports shall be kept confidential.

SECTION 17. If such preventive or corrective measures are not taken in accordance with the order of the board, the board may institute a civil action in any court of competent jurisdiction for injunctive relief to prevent any further violation of such code, rule or regulation. Said court shall have power to grant such injunctive relief upon notice and hearing.

SECTION 18. Any private person or agency who shall violate any of the rules or regulations promulgated by the board shall be liable for

a penalty of \$100 for each seven-day period or fraction thereof if the time shall fall short of seven days or any multiplication thereof, following the ninth day after the expiration of the time fixed for the taking of preventive or corrective measures in the board's order. The board may institute legal proceedings in the name of the Territory to recover the penalty, which shall be a government realization.

SECTION 19. If any person is aggrieved by the decision of the board, he may, within twenty days after the decision of the board is rendered, appeal to the circuit judge of the circuit in which he resides or has his principal place of business, and the hearing before such judge shall be de novo. Appeals to the circuit judge shall be perfected by filing a notice of appeal with the board which shall be forwarded forthwith to the clerk of the circuit court of the circuit to which such appeals may be taken. Within five days of the filing of such notice of appeal, or such further time as the judge may allow, the board shall file with the clerk of the court a certified copy of the hearings had before it in regard to the matter in which the appeal was taken, together with the original notice of appeal.

SECTION 20. No rule or regulation of the board shall be declared to be invalid because of any technical defect. Any action for the enforcement or prosecution for violation thereof shall, if so ordered by the judge having jurisdiction, be stayed pending the final determination of such appeal. The decree of the circuit judge may be appealed to the supreme court. Except as provided in section 19 hereof, no court shall have jurisdiction to review any rule or regulation of the board or to restrain or interfere with its enforcement.

SECTION 21. Notwithstanding any other provision of law to the contrary, no member, officer or employee of the board shall be criminally liable or responsible under the provisions of this Act for any acts done by such member, officer or employee in the performance of his duties.

SECTION 22. No existing civil or criminal remedy for any wrongful action which is a violation of any rule or regulation of the board or of an ordinance of any county shall be excluded or impaired by this Act.

SECTION 23. No ordinance or regulation of any governing body of a county, or any rule or regulation promulgated pursuant thereto not inconsistent with this Act shall be superseded by this Act. Nothing in this Act or in any rule or regulation promulgated pursuant thereto shall preclude the right of any governing body of a county to adopt ordinances or any rule or regulation promulgated pursuant thereto not inconsistent with this Act. All ordinances and any rule or regulation promulgated pursuant thereto inconsistent with this Act shall be invalid and of no effect.

SECTION 24. The powers, duties and functions vested in the board of health under the provisions of this Act shall not be construed to affect in any manner the powers, duties and functions vested in the board of health under any other provision of law.

SECTION 25. Every person who denies, obstructs or hampers the entrance and inspection by any member or duly authorized officer or employee of the board, of any building or place which he is authorized to



enter and inspect under the provisions of subsection e. of section 6 hereof is guilty of a misdemeanor and upon conviction shall be fined not more than \$500.

SECTION 26. The provisions of this Act are declared to be severable, and if any portion of this Act, or if the application of this Act or any portion thereof to any person, circumstance or property, is held invalid for any reason, the validity of the remainder of this Act, or the application of this Act or such portion thereof to other persons, circumstances or property, shall not be affected.

SECTION 27. This Act shall take effect upon its approval.

(Approved May 6, 1957.) S.B. 371, Act 60.

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### ACT 61

An Act to Amend Section 149-180 of the Revised Laws of Hawaii 1955, Relating to the City Planning Commission.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 149-180 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the word "realtor" appearing at the end of the paragraph and substituting the words "licensed real estate broker".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 6, 1957.) H.B. 551, Act 61.

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### ACT 62

An Act Amending Sec. 149-120 of the Revised Laws of Hawaii 1955, Relating to the Controller's Report.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 149-120 of the Revised Laws of Hawaii 1955 is hereby amended by amending the fifth sentence to read as follows:

"The controller shall at the same time prepare statements showing at the end of each quarter the cash position of the city and county and the unencumbered balance in each fund and such other statements as he may deem necessary."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 6, 1957.) H.B. 1138, Act 62.

### ACT 63

An Act Amending Chapter 149 of the Revised Laws of Hawaii 1955, Relating to the City and County, by Inserting Therein a New Section to be Numbered 149-129.1, Authorizing the Board of Supervisors to Make Temporary Transfers or Loans of Moneys in the Improvement District Revolving Fund to the General Fund.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 149 of the Revised Laws of Hawaii 1955, is hereby amended by adding thereto a new section numbered 149-129.1, to read as follows:

**"Sec. 149-129.1. Temporary transfers or loans of improvement district revolving fund moneys by the board authorized.** Any other law to the contrary notwithstanding, in the event there are moneys in the improvement district revolving fund, which, in the treasurer's judgment, are in excess of the amounts necessary for the immediate requirements of the said improvement district revolving fund, the board of supervisors is empowered to authorize by resolution adopted on one reading and without publication, temporary transfer or loan of such moneys to the general fund for a period not exceeding six months.

The improvement district revolving fund shall be reimbursed from the general fund within six months."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 6, 1957.) **H.B. 1149, Act 63.**

### ACT 64

An Act to Amend Chapter 143 of the Revised Laws of Hawaii 1955, Relating to Urban Redevelopment and the Appointment and Removal of the Agency Members.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Sec. 143-3(a) of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 143-3. Redevelopment agency; creation.** (a) The board of a county by resolution may create a local redevelopment agency for such county, which shall be a county agency and a public body, corporate and politic, and shall consist of five members, appointed by the mayor or chairman of the board, with the approval of the board, who shall be outstanding and public-spirited citizens and who shall have resided in the county for at least three years immediately preceding their appointment. The members of such agency shall serve for terms of five years each; provided that, upon the initial appointment of the members of such agency, one member shall be appointed for a term of one

year, the second member for a term of two years, the third member for a term of three years, the fourth member for a term of four years and a fifth member for a term of five years. Each vacancy shall be filled by the appointing power for the remainder of the unexpired term. No more than three of such members shall belong to the same political party."

SECTION 2. The members of any presently existing agency who are holding office on the effective date of this Act shall continue in office in the same manner and for the same time as if this Act had not become law, but their successors shall be nominated and appointed, and shall hold office, as provided in this Act.

SECTION 3. Section 143-5 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 143-5. Removal of members.** Any member of a redevelopment agency may be removed for any inefficiency, neglect of duty or misconduct in office by the mayor or chairman of the board with the approval of the board."

SECTION 4. This Act shall take effect upon its approval.

(Approved May 6, 1957.) H.B. 1166, Act 64.

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## ACT 65

An Act to Amend Section 3-25 of the Revised Laws of Hawaii 1955, Relative to Appeals from Suspensions, Dismissals and Demotions of Civil Service Employees, by Adding Thereto a New Paragraph Relative to Legal Counsel in Appeal Hearings Before the Several Civil Service Commissions.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 3-25** of the Revised Laws of Hawaii 1955 is hereby amended by adding at the end thereof a new paragraph to read as follows:

"When an appeal hearing is before a county civil service commission, the attorney general shall be counsel for the commission and the county attorney shall be counsel for the appointing authority. If, however, an appeal hearing is before the territorial commission, the attorney general shall be counsel for the commission and the county attorney of the county in which the appeal hearing is being conducted shall be counsel for the appointing authority."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 7, 1957.) S.B. 566, Act 65.

**ACT 66**

An Act to Amend Section 6-135 of the Revised Laws of Hawaii 1955,  
Relating to Pension Fund for Policemen, Firemen, and Bandsmen.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 6-135** of the Revised Laws of Hawaii 1955,  
is hereby amended by amending paragraph (b) thereof, to read as  
follows:

“(b) All funds appropriated to the pension fund. The board  
of supervisors shall set aside annually from the general fund of the  
county, a sum which shall be necessary for the payment, during  
the ensuing year, of all pensions granted by the board of trustees,  
which sum shall be placed by the treasurer to the credit of the  
pension fund in two semi-annual installments, namely, on the last  
day of June and December, respectively, of each year, and shall be  
used or devoted solely for the purposes of the pension fund.

Such payments to the pension fund shall continue so long as  
they shall be necessary to pay all pensions to persons on the  
pension rolls of the fund as of December 31, 1927, and all pensions  
which may become payable to or on account of all policemen,  
firemen and bandsmen who were in service on December 31, 1927.  
All such pensioners and policemen, firemen and bandsmen shall be  
entitled to benefits at the full rates.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 7, 1957.) S.B. 525, Act 66.

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**ACT 67**

An Act to Authorize the Establishment and Maintenance of Volunteer  
Fire Stations in the County of Maui, and Amending Section 148-67 of  
the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 148-67 of the Revised Laws of Hawaii 1955,  
is hereby amended to read as follows:

“**Sec. 148-67. Volunteer fire stations.** The board of super-  
visors shall have the power to establish and maintain one or more  
volunteer fire stations in any area or areas of the county of Maui  
as it may determine to be necessary to provide adequate fire pro-  
tection. All necessary facilities and equipment for such volunteer  
fire stations may be furnished by the county of Maui. The officers,  
firemen or other personnel necessary for the operation or mainte-  
nance of such stations shall be selected and appointed by the chief  
engineer partially, or entirely, on a voluntary noncompensatory  
basis, and, except as otherwise provided in this section, volunteer  
personnel, including officers and firemen, shall not, under any  
circumstances, be entitled to receive any compensation from the

county of Maui for the performance of their services. All volunteer personnel for any volunteer fire station shall serve at the pleasure of the chief engineer.

The chief engineer shall have full authority and control over all volunteer fire stations, their equipment, apparatus, officers, firemen and personnel, and he may designate a suitable person to be in charge of any volunteer fire station. Suitable instructors may be assigned from time to time by the chief engineer to such fire stations for the training of volunteer firemen and personnel.

In case any person serving in the capacity of volunteer personnel for such fire station, including a volunteer officer or fireman, shall sustain any injury or shall die as a result of any accident arising out of and in the course of training, or the performance of duty for such fire station, such person shall be entitled to the benefits provided for volunteer personnel in part VII of chapter 97, and be considered to be an employee of the county of Maui for the purpose of obtaining compensation benefits under chapter 97. Compensation benefits shall be determined upon the basis of average weekly wages computed as set forth in section 97-30, and upon the basis of earnings from the usual employment of such person, or upon the basis of earnings at the rate of \$18 per week, whichever is most favorable to the claimant or claimants. The bureau of workmen's compensation of the department of labor and industrial relations shall administer the provisions hereof in accordance with section 97-122."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 9, 1957.) S.B. 790, Act 67.

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### ACT 68

An Act to Amend Section 148-2 of the Revised Laws of Hawaii 1955, Relating to the Board of Supervisors of the County of Maui.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 148-2** of the Revised Laws of Hawaii 1955, is hereby amended by deleting therefrom the last two sentences and by substituting therefor the following:

"The clerk of the county of Maui shall prescribe such modification of the form of the nomination paper, as well as the form of the ballots, both for the primary and general elections, as shall secure such representation for the islands of Molokai and Lanai. In case only one candidate seeking office as a member is a resident elector of the island of Molokai (except that portion defined as the county of Kalawao) or a resident elector of the island of Lanai, as the case may be, with the residential qualification herein prescribed, and such candidate shall be nominated at the primary election, or in case one candidate only is nominated at such primary election who shall be a resident elector of the island of Molokai (except

that portion defined as the county of Kalawao) or a resident elector of the island of Lanai, as the case may be, with the said residential qualification, and none of the other candidates nominated for the office of supervisor on the same or any other ticket, non-partisan or otherwise, shall have or possess such residential qualification, then the sole candidate nominated for the office of supervisor with such residential qualification as a resident elector of the island of Molokai (except that portion defined as the county of Kalawao) or as a resident elector of the island of Lanai, as the case may be, shall be deemed and declared to be duly and legally elected as a member of such board, regardless of the number of votes received by him. All such elections shall otherwise be conducted in the manner prescribed by law for the election of county officers."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 9, 1957.) S.B. 791, Act 68.

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### ACT 69

An Act Providing for Certain Transfers to and Deposits in the General Fund of the Territory and Amending Section 132-17 Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 132-17** Revised Laws of Hawaii 1955 is hereby amended by adding the words "and Territorial Highway Fund" after the words "Territorial Airport Fund".

SECTION 2. Except as hereinafter provided, and notwithstanding any provision of any other law to the contrary, there shall be deducted from time to time by the treasurer for the purpose of defraying the prorated estimate of central service expenses of government in relation to the territorial highway fund created by section 129-11 Revised Laws of Hawaii 1955, five per cent of all receipts and deposits in said fund, after deducting therefrom any amounts pledged, charged or encumbered for the payment of bonds or interest thereon during the current year, from which receipts or deposits no deduction of said five percent shall have been previously made, which deductions shall be transferred to the general fund of the Territory and become general realizations of the Territory. The territorial highway engineer is directed to cooperate with the treasurer in effecting such transfers.

SECTION 3. This Act shall take effect on July 1, 1957, and shall apply to all deposits and receipts thereafter deposited and received, except as otherwise provided.

(Approved May 9, 1957.) S.B. 799, Act 69.

**ACT 70**

An Act to Amend Section 153-21 of the Revised Laws of Hawaii 1955,  
Relating to Effect of Failure to Pay Assessment Installments.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The last sentence of **section 153-21** of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"The owner of any land assessed, not in default as to any installment or payment, may at any time after the expiration of the first thirty-day period, pay any number of installments in the lump sum, or the entire unpaid principal with interest thereon to the next subsequent annual date for the payment of installments."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 9, 1957.) **S.B. 919, Act 70.**

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**ACT 71**

An Act to Amend Section 149-86 of the Revised Laws of Hawaii 1955,  
Relating to the Powers and Duties of the Board of Supervisors of the City and County, by Adding Thereto a New Subsection, Relating to Lease of Real Property Owned by the City and County.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 149-86** of the Revised Laws of Hawaii 1955, is hereby amended, by adding thereto a new subsection at the end thereof, to be appropriately numbered and to read as follows:

"[33A.] Lease of real property. To lease at public auction, after notice by publication once a week for at least two weeks in any daily newspaper of general circulation in the city and county, any real property in the possession, use and control of the city and county, including any building thereon, under any terms and conditions."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 9, 1957.) **S.B. 957, Act 71.**

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**ACT 72**

An Act Relating to Annulment, Divorce and Support After Divorce of Persons Affected by Hansen's Disease and Amending Sections 324-1, 324-20, 324-21, 324-25, 324-31 and 324-33 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 324-1** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the words "Hansen's disease" in the first line of subsection (g).

SECTION 2. **Section 324-20** of the Revised Laws of Hawaii 1955 is hereby amended by deleting therefrom the fifth lettered cause of divorce and re-lettering the subsequent lettered causes to conform to such deletion.

SECTION 3. **Section 324-21** of the Revised Laws of Hawaii 1955 is hereby amended by changing the semicolon after the word "application" in line seven thereof to a period and deleting the proviso which follows.

SECTION 4. **Section 324-25** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the last sentence thereof.

SECTION 5. **Section 324-31** of the Revised Laws of Hawaii 1955 is hereby amended by changing the semicolon after the word "decree" in line 7 to a period and by deleting the proviso thereafter.

SECTION 6. **Section 324-33** of the Revised Laws of Hawaii 1955 is hereby amended as follows:

a. By deleting the words "Hansen's disease sufferer or" in the title thereof;

b. By deleting the words "or on the ground that the libellee is affected with Hansen's disease," in the fourth and fifth lines thereof;

c. By deleting the words "or person affected with Hansen's disease" in the seventh line thereof.

SECTION 7. Nothing in this Act shall invalidate any court decisions or suits pending which were entered and filed pursuant to the sections hereinabove mentioned and in effect prior to the effective date of this Act.

SECTION 8. This Act shall take effect upon approval.

(Approved May 13, 1957.) **H.B. 353, Act 72.**

## ACT 73

An Act to Amend Section 149-197 of the Revised Laws of Hawaii 1955, Relating to Zoning Regulations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The first paragraph of section 149-197 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"**Sec. 149-197. Zoning regulations.** Any existing ordinance of the city and county to regulate and limit the height and bulk of buildings, to regulate and determine the area of yards, courts and other open spaces, including spaces for off-street parking, or to regulate and restrict the location of trades and industries and the location of buildings designed for specific uses or creating districts for any such purpose, or to grant variances from any regulation or limitation, may be amended or repealed, and any new ordinance to regulate or determine any of such subjects or matters shall be



enacted only in either of the two following modes, subject to the last proviso of this section:".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1957.) S.B. 701, Act 73.

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## ACT 74

An Act Relating to Employment Security: Providing Unemployment Compensation for Agricultural Workers and Amending Chapter 93 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby added to the Revised Laws of Hawaii 1955 a new chapter, which chapter and its sections shall be appropriately numbered by the secretary of the Territory, reading as follows:

### "CHAPTER [93A] AGRICULTURAL UNEMPLOYMENT COMPENSATION LAW.

Sec. 1. **Title.** This chapter shall be known as the 'Hawaii Agricultural Unemployment Compensation Law'.

### DEFINITIONS

Sec. 2. **Definitions, generally.** As used in this chapter, unless the context clearly requires otherwise:

(a) 'Agricultural employee' means an individual who was regularly employed by the same agricultural employer during the 12 calendar months immediately preceding the filing of his first claim for benefits for the benefit year. An individual shall be deemed regularly employed for said period only if for some portion of a day in each of 30 or more different weeks in said period he was engaged in agricultural employment for the same agricultural employer. In the case of an individual who is engaged in agricultural employment for the same agricultural employer on a full-time year-round basis, authorized absence from work for the whole or any portion of any week shall be counted as work during such week.

(b) 'Agricultural employer' means any employing unit

(1) which employs in agricultural employment 20 or more individuals (whether or not the same individuals) for some portion of a day on each of some 24 days in any calendar quarter beginning after June 30, 1957;

(2) which employs in agricultural employment during each of the three consecutive calendar quarters immediately preceding such calendar quarter 20 or more individuals (whether or not the same individuals) for some portion of a day on each of some 24 days in each of said consecutive calendar quarters; and

(3) which is an employer subject to chapter 93.

(c) 'Base period' means the four completed calendar quarters

immediately preceding the first day of an individual's benefit year.

(d) 'Benefits' means the money payments payable to an agricultural employee, as provided under this chapter, with respect to his unemployment.

(e) 'Benefit year' with respect to any agricultural employee means the one-year period beginning with the first day of the first week with respect to which he first files a valid claim for benefits and thereafter the one-year period beginning with the first day of the first week with respect to which he next files a valid claim for benefits after the termination of his last preceding benefit year. Any claim for benefits made in accordance with this chapter shall be deemed a 'valid claim' for the purpose of this subsection if the agricultural employee has been paid the wages for insured work required by section 13(e) of this chapter. For the purposes of this subsection, a week with respect to which an agricultural employee files a valid claim shall be deemed to be 'in,' 'within,' or 'during' that benefit year which includes the greater part of such week.

(f) 'Board' and 'unemployment compensation board' and 'territorial board' each means the commission of labor and industrial relations as provided in section 88-3 of chapter 88.

(g) 'Calendar quarter' means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof, as the board may by regulation prescribe.

(h) 'Commissioner' or 'tax commissioner' means the tax commissioner of the Territory and his duly constituted subordinates.

(i) 'Contributions' means the money payments required by this chapter to be made into the agricultural unemployment compensation fund by an agricultural employer.

(j) (1) 'Employing unit' means any individual or type of organization including any partnership, association, trust, estate, joint stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor of any of the foregoing, or the legal representative of a deceased person, which has or subsequent to September 30, 1956, had one or more individuals in its employ engaged in agricultural employment within this Territory.

(2) All agricultural employees performing services within this Territory for any employing unit which maintains two or more separate farms or establishments within this Territory shall be deemed to be performing services for a single employing unit for all the purposes of this chapter.

(3) Each agricultural employee employed to perform or to assist in performing the work of any person in the service of an employing unit shall be deemed to be engaged by such employing unit for all the purposes of this chapter, whether he was hired or paid directly by such employing unit or by such person, provided

the employing unit had actual or constructive knowledge of the work.

(k) 'Employment office' means the free public employment office or branch thereof which is defined by Sec. 93-1 (j) of Chapter 93.

(l) 'Fund' means the agricultural unemployment compensation fund established by section 22 of this chapter.

(m) 'Insured work' means agricultural employment for an agricultural employer.

(n) 'Referee' means the referee for agricultural unemployment compensation appeals.

(o) 'Unemployment.' An agricultural employee shall be deemed 'unemployed' in any week during which he performs no services and with respect to which no wages are payable to him, or in any week of less than full time work if the wages payable to him with respect to such week are less than his weekly benefit amount. The board shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to total unemployment, part-total unemployment, partial unemployment, of individuals attached to their regular jobs, and other forms of short-time work as the board deems necessary. 'Week of unemployment' means a week in which an agricultural employee is deemed unemployed as aforesaid.

(p) 'Week' means any period of seven consecutive days as the board may by regulation prescribe.

## EMPLOYMENT DEFINED

Sec. 3. '**Agricultural employment**' means agricultural labor as defined in section 93-9 which is performed within this Territory.

Sec. 4. **Master and servant relationship, not required when.** An individual engaged in agricultural employment for wages or under any contract of hire shall be deemed to be engaged in agricultural employment subject to this chapter irrespective of whether the common-law relationship of master and servant exists unless and until it is shown to the satisfaction of the board that:

(a) Such individual has been and will continue to be free from control or direction over the performance of such employment, both under his contract of hire and in fact; and

(b) Such employment is either outside the usual course of the business for which such service is performed or that such employment is performed outside all the places of business of the enterprise for which such employment is performed; and

(c) Such individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the contract of employment.

Sec. 5. '**Excluded service.**' 'Agricultural employment' shall not include

(a) Service which is covered by chapter 93; or

(b) Service, other than agricultural labor, which is excluded by section 93-7 from the definition of employment in chapter 93.

**Sec. 6. Included and excluded service.** If the services performed during more than one-half of any pay period by an individual for the person employing him constitute agricultural employment, all the services of such individual for such period shall be deemed to be agricultural employment; but if the services performed during one-half or less of any such pay period by an individual for the person employing him do not constitute agricultural employment, then none of the services of such individual for such period shall be deemed to be agricultural employment. As used in this paragraph the term 'pay period' means a period (of not more than thirty-one consecutive days) for which a payment of remuneration is ordinarily made to the individual by the person employing him.

### WAGES DEFINED

**Sec. 7. Definition of wages.** As used in this chapter, unless the context clearly requires otherwise, 'wages' subject to the other provisions of this subtitle, means all remuneration for agricultural employment, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, but not including tips or gratuities paid directly to an individual by a customer of his agricultural employer and not accounted for by the individual to such employer. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the board.

**Sec. 8. Excluded payments.** 'Wages' does not include the amount of payment or remuneration set forth in section 93-11.

### BENEFITS, GENERALLY

**Sec. 9. Payment of benefits.** Benefits provided herein shall be payable only for benefit years beginning after June 30, 1958. Benefits shall be paid through employment offices, in accordance with such regulations as the board may prescribe.

**Sec. 10. Weekly benefit amount.** (a) Except as provided with respect to qualifying wages, an agricultural employee's weekly benefit amount shall be the amount appearing in column B in the table in this section on the line on which, in column A of such table, there appears the total wages paid to such individual for insured work in that quarter of his base period in which such total wages were highest.

(b) If an agricultural employee is also entitled to qualify for benefits under chapter 93, his weekly benefit amount shall be (1) the amount (hereinafter referred to as aggregate weekly benefit amount) appearing in column B on the line on which, in column A, there appears the aggregate amount of wages paid to such individual for insured work under this chapter and for insured work under chapter 93 in that quarter of his base period in which

such aggregate wages were highest, minus (2) the weekly benefit amount for which he is entitled to qualify under chapter 93.

(COLUMN A) High Quarter Wages	(COLUMN B) Basic Weekly Benefit	(COLUMN C) Minimum Qualifying Wages	(COLUMN D) Maximum Total Benefits in Benefit Year
\$ 37.50 — 125.00	\$ 5.00	\$150.00	\$100.00
125.01 — 150.00	6.00	180.00	120.00
150.01 — 175.00	7.00	210.00	140.00
175.01 — 200.00	8.00	240.00	160.00
200.01 — 225.00	9.00	270.00	180.00
225.01 — 250.00	10.00	300.00	200.00
250.01 — 275.00	11.00	330.00	220.00
275.01 — 300.00	12.00	360.00	240.00
300.01 — 325.00	13.00	390.00	260.00
325.01 — 350.00	14.00	420.00	280.00
350.01 — 375.00	15.00	450.00	300.00
375.01 — 400.00	16.00	480.00	320.00
400.01 — 425.00	17.00	510.00	340.00
425.01 — 450.00	18.00	540.00	360.00
450.01 — 475.00	19.00	570.00	380.00
475.01 — 500.00	20.00	600.00	400.00
500.01 — 525.00	21.00	630.00	420.00
525.01 — 550.00	22.00	660.00	440.00
550.01 — 575.00	23.00	690.00	460.00
575.01 — 600.00	24.00	720.00	480.00
600.01 — 625.00	25.00	750.00	500.00
625.01 — 650.00	26.00	780.00	520.00
650.01 — 675.00	27.00	810.00	540.00
675.01 — 700.00	28.00	840.00	560.00
700.01 — 725.00	29.00	870.00	580.00
725.01 — 750.00	30.00	900.00	600.00
750.01 — 775.00	31.00	930.00	620.00
775.01 — 800.00	32.00	960.00	640.00
800.01 — 825.00	33.00	990.00	660.00
825.01 — 850.00	34.00	1020.00	680.00
850.01 — and over	35.00	1050.00	700.00

Sec. 11. **Weekly benefit for unemployment.** Each eligible agricultural employee who is unemployed as defined in section 2 (o) in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount as determined under section 10, minus that part of the wages (if any) payable to him with respect to such week. Such benefit, if not a multiple of \$1, shall be computed to the next higher multiple of \$1.

Sec. 12. **Duration of benefits.** (a) The maximum potential benefits of an eligible agricultural employee in a benefit year shall be the amount appearing in column D of the schedule in section

10 on the line on which, in column B of the schedule, appears his weekly benefit amount.

(b) If an eligible agricultural employee is also entitled to qualify for benefits under chapter 93, the maximum potential benefits in a benefit year under this chapter shall be the amount appearing in column D of the schedule in section 10 on the line on which, in column B of the schedule, appears his aggregate weekly benefit amount determined pursuant to section 10, minus the maximum potential benefits for which he is entitled to qualify under chapter 93 for a benefit year any part of which falls within a benefit year established under this chapter.

### BENEFIT ELIGIBILITY CONDITIONS

Sec. 13. **Qualification for benefits.** An unemployed agricultural employee shall be eligible to receive benefits with respect to any week only if the board finds that:

(a) Claim. He has made a claim for benefits with respect to such week under this chapter and under chapter 93, if benefits are payable thereunder, in accordance with such regulations as the board may prescribe.

(b) Registration. He has registered for work at, and thereafter continued to report at, an employment office in accordance with such regulations as the board may prescribe, except that the board may, by regulation, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which it finds that compliance with such requirements would be oppressive, or would be inconsistent with the purpose of this chapter; providing that no such regulation shall conflict with section 9.

(c) Availability. He is able to work, is available for work and is actively seeking work. Any claimant who, because of marital obligations or approaching marriage, has voluntarily left work for an indefinite period, to engage in the occupation of a homemaker, shall be considered unavailable for work until availability for work is shown by some evidence in addition to registration for work and statement of availability such as (but not limited to) the fact that the conditions which led to leaving work have terminated; or arrangements have been made for the care of the household by others; or conditions require claimant's contribution to the economic support of the household; or the claimant has had some work or made efforts to secure work.

(d) Waiting period. He has been unemployed for a waiting period of one week within his benefit year provided that no individual shall be required to serve a waiting week if the first week of his unemployment occurring within a benefit year is immediately preceded by a week of unemployment in the preceding benefit year for which benefits are payable. No week shall be counted as a waiting period:

(1) If benefits under this chapter or under chapter 93 have been paid with respect thereto.

(2) Unless the individual was eligible for benefits with respect thereto as provided in this section and section 14, except for the requirements of this subsection.

(e) Wages for insured work. He has during his base period been paid wages for insured work equal to not less than the amount appearing in column C of the schedule in section 10, on the line on which, in column B of said schedule, appears his weekly benefit. For purposes of this subsection, wages paid during his base period for insured work under chapter 93 shall be included in calculating minimum qualifying wages paid for insured work. Wages shall be counted as 'wages for insured work' for benefit purposes with respect to any benefit year only if such benefit year begins subsequent to the date on which the employing unit by which such wages were paid has satisfied the conditions of section 2 (b) with respect to becoming an agricultural employer.

#### DISQUALIFICATION FOR BENEFITS

**Sec. 14. An agricultural employee shall be disqualified for benefits:**

(a) Voluntary separation. For any week in which the individual is unemployed as a result of having voluntarily left his most recent work without good cause attributable to his agricultural employer, if so found by the board. An agricultural employee who left his employment to retire under a group retirement system before he reached the compulsory retirement age shall be considered to have voluntarily left his employment without good cause attributable to his agricultural employer.

(b) Discharge for misconduct. For any week in which the individual is unemployed as a result of having been discharged from his most recent work for misconduct connected with his work, if so found by the board.

(c) Failure to apply for work, etc. If he has failed, without good cause, to apply for available, suitable work when so directed by the employment office or the board or any duly authorized representative of the board, or to actively seek work, or to accept suitable work offered him. Such ineligibility shall continue for the week in which such failure occurred and for not less than two nor more than seven consecutive weeks of unemployment which immediately follow such week, as determined according to the circumstances of each case.

(1) In determining whether or not any work is suitable for an individual there shall be considered among other factors and in addition to those enumerated in paragraph (2) of this subsection, the degree of risk involved to his health, safety and morals, his physical fitness and prior training, his experience and prior earnings, the length of his unemployment, his prospects for obtaining work in his customary occupation, the distance of available work

from his residence and prospects for obtaining local work. The same factors so far as applicable shall be considered in determining the existence of good cause for an individual's voluntarily leaving his work under subsection (a) of this section.

(2) Notwithstanding any other provisions of this chapter, no work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(i) If the position offered is vacant due directly to a strike, lockout, or other labor dispute;

(ii) If the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(iii) If as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(d) Labor dispute. For any week with respect to which it is found that his unemployment is due to a stoppage of work which exists because of a labor dispute at the farm, establishment, or other premises at which he is or was last employed; **provided** that this subsection shall not apply if it is shown that

(1) he is not participating in or directly interested in the labor dispute which caused the stoppage of work; and

(2) he does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs; any of whom are participating in or directly interested in the dispute; provided that, if in any case separate branches of work, which are commonly conducted as separate businesses in separate premises, are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate farm, establishment, or other premises.

(e) Fraud. If the board finds that he has within the twenty-four calendar months immediately preceding any week of his unemployment, with intent to defraud by obtaining any benefits not due under this chapter, made a false statement or representation of a material fact knowing it to be false or knowingly failed to disclose a material fact, in which case he shall be disqualified for the week in which the board makes such determination and for not more than the fifty-one weeks immediately following such week; **provided**, however, that no disqualification shall be imposed if proceedings have been undertaken against the claimant under section 32.

(f) Other unemployment benefits. For any week or part of a week with respect to which he has received or is seeking unemployment benefits under any other employment security law, except chapter 93, but this subsection shall not apply (1) if the appropriate agency finally determines that he is not entitled to benefits



under such other law, or (2) if benefits are payable to him under an Act of Congress which has as its purpose the supplementation of unemployment benefits under a state law.

(g) Pregnancy. Within four months prior to the anticipated date of such individual's giving birth to a child and two months after childbirth.

(h) Other remuneration. For any week with respect to which he will receive, is receiving or has received remuneration in the form of

(1) retirement pay or a pension paid directly by an agricultural employer from whom he has received base period wages or paid indirectly by such employer, in whole or in part, in the manner set forth in section 93-11, or

(2) a primary insurance benefit under the Social Security Act, as amended, or similar old age benefits under any Act of Congress; Provided that if the individual's benefit amount for such week exceeds such remuneration, he shall, if otherwise eligible, be eligible for a benefit in the amount of such excess. Such benefit, if not a multiple of \$1, shall be computed to the next higher multiple of \$1.

#### CLAIMS FOR BENEFITS

Sec. 15. **Applicable provisions of chapter 93.** Except as provided by section 16 or otherwise inconsistent with this chapter, sections 93-30 to 93-44 shall be applicable, mutatis mutandis, to all matters covered by this chapter, and for that purpose are incorporated by reference as fully and effectually to all intents and purposes as if their provisions were repeated in this chapter.

Sec. 16. **A claim for benefits under chapter 93 shall constitute a claim for benefits under this chapter.**

Sec. 17. (a) Contributions shall accrue and become payable by each agricultural employer for each calendar quarter beginning after June 30, 1957. Contributions shall be based upon wages paid to individuals (whether agricultural employees or not) for agricultural employment by an agricultural employer during each such calendar quarter, except that contributions shall not be paid on wages of any individual in a calendar quarter if he does not engage in agricultural employment for some portion of a day on at least 24 days in such quarter.

(b) Contributions shall become due and be paid by an agricultural employer to the commissioner in accordance with such regulations as the board may prescribe, and shall not be deducted, in whole or in part, from the wages of the individuals in his employ.

(c) In the payment of contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(d) For each calendar year the standard rate of contributions applicable to an agricultural employer shall be 1% unless

(1) The moneys which have been paid into or credited to his reserve account have been exhausted. In such case, his contribution rate shall be 2.7%, which rate shall be effective as of the beginning of the calendar quarter in which exhaustion occurs. Such rate shall continue until the end of the calendar quarter in which his reserve account shall show a credit balance, after payment of all benefits chargeable thereto, of an amount equal to 1% of his annual payroll (as 'annual payroll' is defined in section 20) for the preceding calendar year. Thereafter his contribution rate shall be as prescribed in this section; or

(2) Contributions were payable to his account throughout the two consecutive calendar years immediately preceding the beginning of the calendar year for which the rate is to be computed. In such case, if the balance available for benefit payments in his reserve account equals or exceeds 5 times the largest amount of benefits charged against it within either of said two calendar years, his contribution rate shall be:

(i) .5 per cent if such balance exceeds or equals 1.5 per cent but is less than 3 per cent of his average annual payroll;

(ii) Zero, and no contributions payable if such balance exceeds or equals 3 per cent of his average annual payroll.

(e) Contributions paid prior to the expiration of 30 days after the beginning of the calendar year for which the rate of contribution is computed, and voluntary payments made pursuant to section 26 within 120 days after the beginning of such calendar year, shall be credited to an agricultural employer's account as of the 31st day of December of the preceding calendar year.

(f) Notwithstanding anything to the contrary in this section, no agricultural employer's rate for any calendar year shall be reduced below 1% unless at all times within the immediately preceding two calendar years moneys were available from which benefits could have been paid from his reserve account to any agricultural employee who became unemployed and eligible.

(g) No provision of this section shall apply, for the period of the exemption, to any agricultural employer who is exempted under section 21 from the payment of contributions.

**Sec. 18. Procedure for rate determination.** The provisions of section 93-68 shall be applicable to and govern the procedure with respect to rate determinations and redeterminations, appeals therefrom and judicial review of such decisions on such appeals, *mutatis mutandis*, as fully and effectually and to all intents and purposes as if said provisions were repeated in this chapter.

**Sec. 19. Reserve accounts of successive agricultural employers.** (a) If an employer or agricultural employer succeeds to or in any manner acquires the organization, trade or business of another agricultural employer, the successor in interest is hereby required to assume the resources and liabilities of such employer's reserve account and to continue the payment of all contributions due under this chapter, except that the successor in interest shall

not be required to assume the liability of any delinquent contributions of his predecessor or predecessors unless the board notifies him of such delinquency within six months after the board has notice of such succession.

(b) The liability for delinquent contributions imposed upon the successor in interest by subsection (a) of this section shall be secondary to the liability of his predecessor or predecessors and if the delinquency has been reduced to judgment the order of execution on such judgment shall be as follows:

(1) Against the assets, both real and personal, of the predecessor or predecessors;

(2) Against the assets, both real and personal, of the business transferred; and

(3) Against the assets, both real and personal, of the successor in interest.

(c) Notwithstanding the provisions of subsection (a), any employing unit which acquires a portion of the organization, trade or business from an employer for whom a reserve account has been maintained by the board, and who is, or by reason of such acquisition becomes, an agricultural employer, shall assume the position of such employer with respect to the resources and liabilities of such reserve account in proportion to the extent of such acquisition as agreed upon by the parties in interest and approved by the board, and the taxable payrolls, benefit charges and the potential benefit charges shall likewise be assumed by the successors in interest in a like proportion.

(d) The contribution rate of a successor employing unit, whether in whole or in part, which was an agricultural employer at the time of such succession, shall not be affected by the transfer until the succeeding calendar year. The contribution rate of a successor employing unit which was not an agricultural employer prior to such succession shall be 1% except as otherwise prescribed in section 17.

**Sec. 20. For purposes of this subtitle, unless the context clearly requires otherwise:**

(a) 'Annual payroll' means the total amount of wages for agricultural employment paid by an agricultural employer during a calendar year; and 'average annual payroll' means the average of the annual payrolls of an employer for a period consisting of the two consecutive calendar years immediately preceding the calendar year for which his rate is computed; and

(b) 'Wages' shall not include remuneration in excess of \$3,000.00 paid with respect to employment (whether agricultural employment or not) to an individual by an agricultural employer during any calendar year.

## EXEMPTION FROM CONTRIBUTIONS

Sec. 21 (a) Any agricultural employer may apply to the board to be exempted from the payment of contributions. The board shall grant such application if the applicant

(1) Elects in writing filed with the board to pay to the board at such time or times as the board by regulations may prescribe the amount of all benefits paid by the board for his account pursuant to this chapter. Said written election shall be in a form prescribed by the board.

(2) Also furnishes proof satisfactory to the board of his solvency and financial ability to pay the benefits provided for in this chapter or furnishes a bond or other security acceptable to the board conditioned upon the payment of such benefits.

(b) Said written election shall remain in effect for a period of not less than four consecutive calendar quarters and thereafter until the agricultural employer gives written notice to the board of his election to terminate his exemption and thereupon become subject to section 17.

(c) Approval of any application for exemption shall be retroactive to the beginning of the calendar quarter in which approval is given. Termination of the exemption under this section shall not become effective until the end of the calendar quarter in which notice is given.

(d) Every agricultural employer who is exempted from payment of contributions under this section shall pay to the board the amount of all benefits paid by the board pursuant to this chapter for his account. The liability of such employer shall continue with respect to the payment of all such benefits on account of base period wages paid prior to the effective date of termination of his exemption.

(e) If an employer or agricultural employer shall succeed to or in any manner acquire the organization, trade or business of an agricultural employer who is covered under this section, the successor in interest is hereby required to assume the liability of the predecessor agricultural employer with respect to payments by the board for the account of the predecessor employer.

## AGRICULTURAL UNEMPLOYMENT COMPENSATION FUND

Sec. 22. **Establishment and control.** There is hereby established in the treasury of the Territory as a special fund, separate and apart from all public moneys or funds of the Territory, an agricultural unemployment compensation fund, which shall be administered by the board exclusively for the purposes of this chapter. All contributions pursuant to this chapter shall be paid into the fund and all benefits payable pursuant to this chapter shall be paid from the fund, except benefits payable pursuant to section 21. The fund shall consist of (1) all contributions collected pursuant to this chapter, together with any interest thereon, less

the amounts appropriated by the board pursuant to section 37; (2) all fines and penalties collected pursuant to this chapter; (3) interest earned on any moneys in the fund; (4) any property or securities acquired through the use of moneys belonging to the fund; (5) all earnings of such property and securities; and (6) all other moneys received for the fund from any other source.

**Sec. 23. Deposit.** The treasurer of the Territory shall be the treasurer and custodian of the fund and shall administer the fund in accordance with directions of the board. All moneys in the fund shall be held in trust for the purposes of this chapter only and shall not be expended, released, appropriated or otherwise disposed of for any other purpose. Moneys in the fund may be deposited in any depositary bank in which general funds of the Territory may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. Such moneys shall not be commingled with other territorial funds but shall be maintained in separate accounts on the books of the depositary bank. Such moneys shall be secured by the depositary bank to the same extent and in the same manner as required by the general depositary law of this Territory; and collateral pledged for this purpose shall be kept separate and distinct from any collateral pledged to secure other funds of the Territory. The territorial treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the fund provided for under this chapter. Such liability on his official bond shall be effective immediately upon the enactment of this provision. All sums recovered on such surety bond for losses sustained by the fund shall be deposited in said fund.

**Sec. 24. Disbursements.** Expenditures of moneys in the fund shall not be subject to any provisions of law requiring specific appropriations or other formal release by territorial officers of money in their custody. All benefits and refunds shall be paid from the fund upon warrants drawn upon the treasurer by the auditor of the Territory supported by vouchers approved by the board.

**Sec. 25. Investment.** With the approval of the board the treasurer may, from time to time, invest such moneys in the agricultural unemployment compensation fund as are in excess of the amount the board deems necessary for the payment of benefits and refunds for a reasonable future period. Such moneys may be invested in bonds of any political or municipal corporation or subdivision of the Territory, or any of the outstanding bonds of the Territory, or to invest such funds in bonds or interest-bearing notes or obligations of the Territory (including territorial treasurer's warrant notes issued pursuant to the provisions of chapter 34), or of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest, or in federal land bank bonds or joint stock farm loan bonds. Such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall

dispose of securities or other properties belonging to the fund only under the direction of the board.

### RESERVE ACCOUNTS

Sec. 26. (a) The board shall maintain within the fund a separate reserve account for each agricultural employer making contributions under this chapter and shall credit to such account the total amount of all contributions paid by such employer. Except as prescribed in subsection (b), the liability of each such account shall be limited to the payment of benefits to eligible agricultural employees of the agricultural employer for whom the account is maintained and no such account shall be liable for the payment of benefits to eligible agricultural employees of another agricultural employer.

(b) Benefits paid to an eligible agricultural employee for a week of unemployment shall be charged proportionately against the accounts of those of his agricultural employers from whom he received base period wages. The proportion so used shall be that ratio which is obtained by dividing base period wages of the agricultural employee to the nearest multiple of 1 cent. For the purpose of this subsection, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(c) Except for benefits paid under the circumstances specified in section 27(b), each agricultural employer's reserve account shall be charged with all benefits paid to an eligible agricultural employee which are chargeable to such reserve account under this section and section 27(c). An agricultural employer's reserve account shall also be charged with all amounts credited to the pooled account as provided in section 27(d).

(d) An agricultural employer's reserve account shall be deemed to be terminated if he has ceased to be subject to this chapter and his account has been closed and any balance remaining therein has been credited to his account in the fund established under chapter 93 in accordance with section 28 or to the fund's pooled account or to a successor's account as provided in sections 19 and 21, respectively.

(e) An agricultural employer may at any time make voluntary payments to his reserve account in addition to the contributions required under this chapter. Voluntary contributions made within 120 days after the beginning of the calendar year shall be considered made as of the 31st day of December of the preceding calendar year.

### POOLED ACCOUNT

Sec. 27 (a) The board shall maintain within the fund a pooled account, commingled and undivided, to which shall be credited:

- (1) All realized earnings and gains on investments of the fund;
- (2) Except as provided in section 28, any balance remaining in

the reserve account of any agricultural employer after such employer has ceased to be subject to this chapter;

(3) Any payments into or amounts in the fund not allocable to any agricultural employer's reserve account; and

(4) All fines and penalties collected pursuant to this chapter.

(b) Benefits paid through error, including benefits paid pursuant to a determination or redetermination or decision which is finally reversed in subsequent proceedings with respect thereto, to employees of agricultural employers not exempted from payment of contributions pursuant to section 21, shall be charged against the pooled account.

(c) To the extent that money in the pooled fund is sufficient therefor, the board may pay, in its discretion, any benefits otherwise due but which have not been paid because of exhaustion of an agricultural employer's reserve account. In the event of any such payments, the amount thereof shall be collected from the reserve account of the agricultural employer on whose behalf such payments were made whenever the board in its discretion deems advisable so to do.

(d) The board shall credit the pooled account with one-tenth of the contributions credited to each agricultural employer's reserve account for each calendar quarter beginning after June 30, 1957, until the amount of the pooled account equals at least  $\frac{1}{2}$  of 1% of the total of annual payrolls (as "annual payroll" is defined in section 20) of all agricultural employers for the preceding calendar year. Whenever the amount in the pooled fund becomes less than  $\frac{1}{2}$  of 1% of said total annual payrolls, the board shall, and as often as required, credit the pooled account as of the first day of each succeeding calendar quarter with an amount equal to  $\frac{1}{40}$  of 1% of each agricultural employer's said annual payroll for the preceding calendar year until the amount in the pooled fund equals at least  $\frac{1}{2}$  of 1% of the total of said annual payrolls. The amount credited to the pooled account with respect to an agricultural employer under this subsection shall be charged to such agricultural employer's reserve account. For purposes of this subsection "annual payrolls" shall not include annual payrolls of agricultural employers exempted under section 21 from payment of contributions.

## TERMINATION OF COVERAGE

### Sec. 28. Election to be covered under chapter 93.

(a) An agricultural employer shall have the right to terminate his coverage under this chapter as of any June 30 or December 31 after January 1, 1958, by filing with the board at least 30 days before the effective date of termination a written election that all future service of individuals in his employ performing agricultural labor shall be deemed to constitute employment under chapter 93 upon compliance with its provisions. Such services shall cease to be agricultural employment subject to this chapter. Such

services shall again be agricultural employment subject to this chapter whenever such services shall cease to be subject to chapter 93.

(b) From and after such termination an agricultural employer shall remain liable for contributions payable under this chapter with respect to wages paid to agricultural employees prior to the effective date of such termination to the same extent as if termination had never occurred. An agricultural employer exempted from the payment of contributions under section 21 shall remain liable for benefits paid by the board on his account under this chapter with respect to base period wages paid to agricultural employees prior to the effective date of such termination to the same extent as if termination had never occurred.

(c) Any balance remaining in such agricultural employer's reserve account shall be transferred to the unemployment compensation fund established by chapter 93 for credit to his account therein when the board finds that no payments will be payable under this chapter to employees of such agricultural employer. Said transfer may also be made whenever requested by such agricultural employer if he agrees in writing with the board to pay to the commissioner the amount of the transferred balance, or so much thereof as may be necessary to pay benefits chargeable against his account, and the board receives proof satisfactory to it of his solvency and financial ability so to do.

## CONTRIBUTIONS, RETURNS, COLLECTIONS AND APPEALS

**Sec. 29. Contributions; levy; other sections applicable.** Contributions are hereby levied against agricultural employers for the purposes of, and as provided in, this chapter. For the purposes of this chapter, the provisions of sections 93-69 to 93-75 are incorporated herein by reference and shall apply, mutatis mutandis, to such contributions, and to returns, collections, appeals and other matters, covered by this chapter, as fully and effectively as if such provisions were repeated in this chapter.

## ADMINISTRATION

**Sec. 30. Administration; other sections applicable.** For the purposes of this chapter, the provisions of sections 93-90 to 93-104 are incorporated herein by reference and shall apply, mutatis mutandis, to the administration of, and other matters covered by, this chapter, as fully and effectively as if such provisions were repeated in this chapter.

## PROTECTION OF RIGHTS AND BENEFITS

**Sec. 31. Rights, etc., preserved; other sections applicable.** (a) For the purposes of this chapter, the provisions of sections 93-150 to 93-152 are incorporated herein by reference and shall apply, mutatis mutandis, to individuals engaged in agricultural



employment for an agricultural employer and other matters covered by this chapter, as fully and effectively as if such provisions were repeated in this chapter.

(b) Benefits due and payable to an eligible individual shall not lapse because of exhaustion of moneys in an agricultural employer's reserve account. Such benefits shall be paid when contributions are credited to such account in accordance with this chapter. Whenever the moneys credited to such account are insufficient to pay all benefits chargeable against it, the board shall by regulation determine the priority of eligible individuals to receive such moneys for benefits due and payable to them on account of unemployment.

### PENALTIES

**Sec. 32. Falsely obtaining benefits, etc.** Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter or under the unemployment compensation law of any state or of the federal government, either for himself or for any other person, shall be fined not less than \$20 nor more than \$200 or imprisoned not more than thirty days, or both; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense; **provided**, that no such fine or imprisonment shall be imposed in any case in which disqualification has been determined under section 14 (o).

**Sec. 33. Employing units.** Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining a subject employer or to avoid or reduce any contribution or other payment required from an employing unit under this chapter or under the unemployment compensation law of any state or of the federal government, or who wilfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, or who wilfully fails to establish, maintain, or preserve records of all individuals in his employ which show the total amount of wages paid for each pay period to each such individual while in his employ, or who wilfully fails to establish, maintain, or preserve any other record, as required by this chapter or any rule or regulation adopted hereunder, shall be fined not less than \$20 nor more than \$200, or imprisoned not more than sixty days, or both; and each such false statement or representation or failure to disclose a material fact, or failure to establish, maintain or preserve records, and each day of such failure or refusal shall constitute a separate offense.

**Sec. 34. General penalty.** Any person who wilfully violates

any provision of this chapter or any order, rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which a penalty is neither prescribed in this chapter nor provided by any other applicable statute, shall be fined not less than \$20 nor more than \$200, or imprisoned not more than sixty days, or both, and each day such violation continues shall be deemed to be a separate offense.

**Sec. 35. Unlawful disclosures.** If any employee or member of the board, or the referee, in violation of the provisions of section 93-94, makes any disclosure of information obtained from any employing unit or individual in the administration of this chapter, or if any person who has obtained any list of applicants for work, or of claimants or recipients of benefits, under this chapter, shall use or permit the use of such list for any political purpose, he shall be fined not less than \$20 nor more than \$200, or imprisoned not more than ninety days, or both.

### REVOLVING FUND

**Sec. 36. (a)** There is hereby established in the treasury of the Territory a special revolving fund, to be known as the agricultural unemployment compensation revolving fund, into which all payments made pursuant to section 21 shall be paid. The sum of \$40,000, which is hereby appropriated from the general revenues of the Territory not otherwise appropriated, shall also be paid into said revolving fund.

**(b)** All moneys in said revolving fund are hereby appropriated for payment of benefits to eligible agricultural employees whose employers have elected to come under section 21, which benefits shall be disbursed in the same manner as benefits are disbursed under section 24.

### ADMINISTRATION FUND

**Sec. 37. (a)** There is hereby established in the treasury of the Territory a special fund, to be known as the agricultural unemployment compensation administration fund, into which there shall be paid all payments specified in this section.

**(b)** There shall be deducted and paid into said administration fund from the contributions made by any agricultural employer making contributions under this chapter an amount equal to 1/10 of 1% of his annual payroll as defined in section 20. In case of an agricultural employer with a zero contribution rate there shall be levied against his reserve account and transferred from the agricultural unemployment compensation fund to said administration fund an assessment in an amount equal to 1/10 of 1% of his annual payroll as so defined.

**(c)** Every agricultural employer who has been exempted from the payment of contributions pursuant to section 21 shall pay to the commissioner during the period of his exemption, an assess-

ment equal to one-tenth (1/10) of one per cent of said annual payroll as defined in section 20. Assessments shall become due and be paid by each exempted agricultural employer in accordance with such regulations as the board may prescribe, and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

### JOINT RESERVE ACCOUNTS

Sec. 38. The board may prescribe regulations for the establishment, maintenance, and dissolution of joint reserve accounts by two or more agricultural employers, and shall, in accordance with such regulations and upon application by two or more such employers to establish such an account, or to merge their several individual accounts in a joint reserve account, maintain such joint account as if it constituted a single agricultural employer's account.

### GENERAL PROVISIONS

Sec. 39. **Nonliability of Territory.** (a) Benefits shall be deemed to be due and payable under this chapter only to the extent provided in this chapter, and to the extent that moneys are available therefor to the credit of a base period agricultural employer's or employers' reserve account or accounts, or to the credit of the revolving fund in case of eligible employees of agricultural employers exempted from payment of contributions, and the board shall not be liable for any amount in excess of such sums.

(b) Neither the board nor any officer or employee of the Territory shall be liable to any agricultural employer with respect to the payment of any benefit in the absence of gross negligence or intent to defraud such agricultural employer.

Sec. 40. **Saving clause, amendment or repeal.** The legislature reserves the right to amend or repeal all or any part of this chapter at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this chapter or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this chapter at any time."

SECTION 2. Chapter 93 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(1) **Section 93-29 (f)** is hereby amended to read as follows:

"(f) Other unemployment benefits. For any week or part of a week with respect to which he has received or is seeking unemployment benefits under any other employment security law, except the Agricultural Unemployment Compensation Law, but this subsection shall not apply (1) if the appropriate agency finally determines that he is not entitled to benefits under such other law, or (2) if benefits are payable to him under an Act of Congress which has as its purpose the supplementation of unemployment benefits under a state law."

(2) **Section 93-76** is hereby amended by adding a new paragraph at the end of said section reading as follows:

"In addition to the election permitted under the preceding paragraph, any employing unit, for which services constituting employment as defined in the Agricultural Unemployment Compensation Law are performed, or will be performed subsequent to its effective date, may at any time before or after its effective date, file with the board a written election setting forth the date on and after which the employing unit desires that all such services shall be deemed to constitute employment by it for all purposes of this chapter, **provided** that the designated date is January 1 or July 1 of a calendar year. Such written election under this paragraph shall not be revocable after it has been filed with the board. From and after the date designated in the written election by the employing unit as the date on and after which the employing unit desires that the services constituting employment as defined in the Agricultural Unemployment Compensation Law shall be deemed to constitute employment subject to the provisions of this chapter, such services shall constitute employment by it for all purposes of this chapter. Between the date that the written election is filed with the board and the date that the employing unit desires that the services constitute employment for all of the purposes of this chapter, the employing unit may make voluntary contributions in such amounts and at such times as the employing unit may determine to do so in anticipation of its ultimate obligations for contributions under this chapter with respect to such employment. If an employing unit has a liability for unpaid contributions or unpaid benefits under the Agricultural Unemployment Compensation Law, this paragraph shall not be availed of by such employing unit unless the board is satisfied of such employing unit's solvency and financial ability to discharge such liability."

**SECTION 3.** This Act shall take effect on July 1, 1957.

(Approved May 13, 1957.) **H.B. 18, Act 74.**

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### ACT 75

An Act to Amend Section 3-4 of the Revised Laws of Hawaii 1955, Relating to Public Officers and Employees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 3-4 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Sec. 3-4. Agreements between territorial and county departments.** The several departments of civil service of the Territory and counties may enter into agreements for the joint administration of such matters as may be practicable and consistent with the provisions of this chapter and chapter 4, including the con-

ducting of examinations and other procedures for the establishment and use of eligible lists, reciprocity in the use of eligible lists, and the conducting of salary studies. All eligible lists established or used under such agreements shall be as fully effective as those established or used separately."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 13, 1957.) **H.B. 1105, Act 75.**

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### **ACT 76**

An Act Relating to Injured Police Chemists, Police and Firemen, and Amending Section 149-7 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 149-7 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Section 149-7. Injured police chemists, police and firemen.**

Whenever any employee of the police department, including the police chemists, or fire department of the city and county receives personal injury by accident arising out of and in performance of his duty and without negligence on his part, he shall be continued on the payroll of his respective department at his full regular monthly salary during the first four months of his disability and thereafter during the period of his total disability from work at sixty per cent of his regular monthly salary. He shall be entitled further to all rights and remedies allowed under chapter 97; **provided** that salary paid under this section shall be applied on account of any compensation allowed him under chapter 97 or any benefits awarded him under part III of chapter 6."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 14, 1957.) **H.B. 414, Act 76.**

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### **ACT 77**

An Act to Amend Section 259-8 of the Revised Laws of Hawaii 1955, Relating to the Requirement of a Quarterly Submission to the Treasurer of Statements of Accounts.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 259-8** of the Revised Laws of Hawaii 1955, is hereby amended by deleting the words and punctuation "and, moreover, once in three months shall render account of the same to the treasurer;" appearing on lines seven and eight thereof.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 14, 1957.) **H.B. 424, Act 77.**

### ACT 78

An Act Relating to Workmen's Compensation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 97, Revised Laws of Hawaii 1955 is hereby amended by changing the periods of compensation for certain members in the schedule of injuries in subsection (a) of section 97-26 as follows:

Thumb, from fifty-one weeks to seventy-five weeks

First finger, from twenty-eight weeks to forty-six weeks

Second finger, from eighteen weeks to thirty weeks

Third finger, from seventeen weeks to twenty-five weeks

Fourth finger, from seven weeks to fifteen weeks

Great toe, from twenty-six weeks to thirty-eight weeks

Other toes, from eight weeks to sixteen weeks

Hand, from two hundred and twelve weeks to two hundred and forty-four weeks

Arm, from two hundred and eighty weeks to three hundred and twelve weeks

Foot, from one hundred and seventy-three weeks to two hundred and five weeks

Leg, two hundred and forty-eight weeks to two hundred and eighty-eight weeks.

SECTION 2. This Act shall take effect on July 1, 1957 and shall be applicable only to injuries occurring on or after that date.

(Approved May 14, 1957.) **H.B. 436, Act 78.**

### ACT 79

An Act to Provide for the Duty to Support a Step-Child by a Step-Parent, and Amending Chapter 330 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 330 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto the following new section to be appropriately numbered:

**"Sec. [330-3.5.]** A step-parent who acts in loco parentis is bound to provide, maintain, and support his step-child during the residence of such child with such step-parent if the legal parents desert such child or are unable to support such child, thereby reducing such child to destitute and necessitous circumstances."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 14, 1957.) **H.B. 579, Act 79.**

### ACT 80

An Act to Amend Chapter 97, Revised Laws of Hawaii 1955, Relating to Workmen's Compensation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 97-23**, Chapter 97, Revised Laws of Hawaii 1955, is hereby amended by inserting after the figure "\$750" in the third line the following:

"to the mortician selected by the family of the deceased or next of kin, or to the mortician selected by the employer or insurance carrier when the deceased has no family or next of kin;"

SECTION 2. This Act shall take effect upon its approval.

(Approved May 14, 1957.) **H.B. 592, Act 80.**

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### ACT 81

An Act to Amend Section 97-30 Revised Laws of Hawaii 1955, Relating to the Computation of Wages.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

"SECTION 1. **Section 97-30** of the Revised Laws of Hawaii 1955 is hereby amended by amending the second paragraph thereof to read as follows:

'Notwithstanding any provision in this section, if a workman at the time of injury is employed with larger wages than formerly during the year, only the larger wages shall be taken into consideration in computing his average weekly wages.'"

SECTION 2. This Act shall take effect upon its approval.

(Approved May 14, 1957.) **H.B. 644, Act 81.**

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### ACT 82

An Act to Amend Section 160-33 of the Revised Laws of Hawaii 1955, Relating to Chauffeurs, Drivers and Operators of Motor Vehicles.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Subsection (b) of **section 160-33** of the Revised Laws of Hawaii 1955 is hereby amended by adding after the semicolon at the end thereof the following proviso:

"**provided**, that no person under the age of thirteen years shall be permitted to drive or operate any such road machine, farm tractor or implement of husbandry on a highway;"

SECTION 2. This Act shall take effect upon its approval.

(Approved May 14, 1957.) **H.B. 749, Act 82.**

### ACT 83

An Act Relating to the Copying, Certification and Reproduction of Records or Excerpts in the Public Archives, Providing for Fees, and Amending Section 224-11 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 224-11** of the Revised Laws of Hawaii 1955 is amended by substituting for the last sentence of the first paragraph and the schedule of fees set forth thereafter, the following:

"Fees for copying, certification and other services shall be prescribed by the board of commissioners of public archives in direct relation to the cost of such services."

SECTION 2. This act shall take effect upon its approval.

(Approved May 14, 1957.) **H.B. 770, Act 83.**

### ACT 84

An Act to Amend Sections 144-33 and 149-86 of the Revised Laws of Hawaii 1955, Relating to the Powers of the Boards of Supervisors.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 144-33** of the Revised Laws of Hawaii 1955 is hereby amended by adding at the end thereof a new subdivision to read as follows:

"(s) To enact a zoning ordinance providing that lands deemed subject to seasonal or periodic, or occasional flooding shall not be used for residence or other purposes in such a manner as to endanger the health or safety of the occupants thereof, as required by the Federal Flood Insurance Act of 1956 (Chapter 1025, Public Law 1016)."

SECTION 2. **Section 149-86** of the Revised Laws of Hawaii 1955 is hereby amended by amending paragraph 43 thereof to read as follows:

"43. Flood control; zoning; drainage of storm waters and removal of debris. To enact zoning ordinance providing that lands deemed subject to seasonal or periodic, or occasional flooding shall not be used for residence or other purposes in such a manner as to endanger the health or safety of the occupants thereof, as required by the Federal Flood Insurance Act of 1956 (Chapter 1025, Public Law 1016). To construct, acquire by gift, purchase, or the exercise of eminent domain, reconstruct, improve, better, extend and maintain projects or undertakings for the control of and protection against floods and flood waters, including the power to drain and rehabilitate lands already flooded."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 14, 1957.) **H.B. 1119, Act 84.**



**ACT 85**

An Act to Amend Section 314-2 of the Revised Laws of Hawaii 1955,  
Relating to the Offense of Disorderly Conduct.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 314-2** of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new subparagraph to be numbered (j) and to read as follows:

“(j) Makes or causes to be made repeated telephone calls with intent to annoy and disturb another person or his family.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 14, 1957.) **S.B. 65, Act 85.**

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**ACT 86**

An Act to Provide for the Waiver of Zoning and Subdivision Requirements in the County of Kauai Where Home Sites are Provided for the Relocation of Tidal Wave Victims.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Notwithstanding any provision of law to the contrary, the Board of Supervisors of the County of Kauai, Territory of Hawaii may waive all zoning and subdivision requirements, established by law or otherwise, in any new subdivisions established primarily for the purpose of relocating the homes of tidal wave victims. Such waiver of zoning and subdivision requirements as herein provided for shall be effective until December 31, 1962.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 14, 1957.) **S.B. 619, Act 86.**

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**ACT 87**

An Act to Amend Section 108-36 of the Revised Laws of Hawaii 1955  
Relating to the Deduction of Earned Income of a Needy Blind  
Person in Determining Amount of Public Assistance.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 108-36** of the Revised Laws of Hawaii 1955 is hereby amended by inserting the phrase “and his dependents” after the word “applicant” in the 6th line of such section as it appears on page 936 of the Revised Laws of Hawaii 1955.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 15, 1957.) **H.B. 564, Act 87.**

**ACT 88**

An Act Relating to the Employment and Compensation of a Certain Retired Public Officer and Employee and His Position.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Nelson Kauhileleihoamano Kaloa, retired animal caretaker, may be continued in his present position as part-time animal caretaker under contract employment with the board of commissioners of agriculture and forestry so long as his services shall be satisfactory to said board. The combined retirement benefits and contract salary of Nelson Kauhileleihoamano Kaloa shall not average more than the maximum salary of animal caretakers on full-time employment, **provided** that any act or joint resolution of the legislature of the Territory relating to the compensation of public employees shall apply to him.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 15, 1957.) **H.B. 726, Act 88.**

**ACT 89**

An Act Relating to the Board of Regents of the University of Hawaii, and Amending Section 44-2 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 44-2** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the first five sentences thereof and substituting therefor the following:

"The affairs of the university shall be under the general management and control of the board of regents consisting of nine members who shall be appointed and may be removed by the governor in the manner prescribed by section 80 of the Organic Act. Of the nine members appointed by the governor, one shall be a resident of the county of Hawaii, one a resident of the county of Maui, and one, a resident of the county of Kauai. At least one member shall be a graduate of the university. Except as otherwise provided by statute, territorial officers shall be eligible to appointment and membership. Four of the members shall be appointed for a term to expire March 31, 1961, and five for a term to expire March 31, 1959; subsequently each member shall be appointed for a term to expire six years after the named expiration date of the preceding term; but every member may serve beyond the expiration date of his term of appointment until his successor has been appointed and has qualified."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 15, 1957.) **S.B. 83, Act 89.**

**ACT 90**

An Act Relating to Aliens and Other Non-Residents Who Become Public Charges by Reason of Hospitalization for Hansen's Disease, Tuberculosis or Other Chronic Diseases; and Authorizing the Board of Health to Adopt Rules and Regulations With Respect Thereto.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The president of the board of health may in his discretion authorize the payment of the cost of transportation of aliens and other non-resident persons who have become public charges by reason of their hospitalization for Hansen's disease, tuberculosis or other chronic diseases requiring prolonged hospitalization, from the Territory to the place where such persons have their legal residence. For the purpose of facilitating the return of such persons to the place of their residence or to facilitate the return to the Territory of any person similarly situated, the board may enter into agreements with any state of the United States or any foreign country. The board may also enter into any agreement to provide for the continued care of such aliens or non-residents by the Territory, at the expense of such state or foreign country or to provide for reciprocal treatment of residents of the Territory by such state or foreign country.

The board may receive funds by way of grant, gift or otherwise from any state, the United States or any foreign country or any person for the purpose of paying all or a part of the cost of such transportation or care.

SECTION 2. A person shall not be deemed to be an alien or a non-resident of the Territory within the meaning of this Act if he meets the following requirements:

(1) Is a citizen of the United States or is a resident alien as defined by the United States bureau of immigration, and (2) has lived continuously in the Territory for a period of one year, and has not acquired a residence in another state by living continuously therein for at least one year subsequent to his residence in the Territory, provided, that for a person who is not a resident of the Territory by birth, then the one year of continuous residence in the Territory shall have been immediately prior to his admittance to a hospital of the Territory for treatment. Any time spent in state or other government hospitals for the isolation and treatment of Hansen's disease, tuberculosis, or other chronic diseases shall not be counted in determining the matter of residence in this or another state. In determining the residence of a minor patient of hospitals of the Territory, due consideration shall be given to the residence of the parents of the patients, and if either one or both parents of the minor patients is a resident of the Territory, the minor patient shall also be deemed a resident of the Territory.

SECTION 3. All expenses incurred in returning such aliens or non-resident persons to the place where they have legal residence, shall be paid by the Territory out of any appropriations made to the hospital in which any such person is a patient, or out of any monies received by the Board of Health for the provisions of this Act.

SECTION 4. Where support or bond has already been pledged or is available, the provisions of this Act shall not be applicable.

SECTION 5. The board of health is authorized to adopt all necessary rules and regulations to carry out the purposes of this Act.

SECTION 6. This Act shall take effect upon its approval.

(Approved May 15, 1957.) **S.B. 369, Act 90.**

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### ACT 91

An Act to Amend Chapter 109 of the Revised Laws of Hawaii 1955, Relating to the Status of Persons Employed in Workshops for the Blind so That They Shall be Eligible for Social Security Benefits.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 109-9 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 109-9. Workshops.** The bureau may also, whenever it deems proper, aid individual blind persons or groups of blind persons to become self-supporting by employing them in workshops operated exclusively for the blind or in their own homes at such compensation as the bureau may determine their services shall warrant, and by furnishing them with materials, machinery and other facilities. No blind person so employed shall be deemed an employee of the Territory or of the bureau within the meaning of this or any other chapter, or any Act; **provided**, that blind persons employed in such workshops shall come under and be entitled to all the benefits of chapter 97 relating to workmen's compensation, the cost of which shall be borne by the territorial insurance fund; **provided** further, that nothing in this section shall be construed to prevent the blind persons so employed from being considered employees of the Territory or of the bureau for purposes of part VI, Chapter 6, if they would be considered employees under Title II of the Federal Social Security Act, as amended.

SECTION 2. This Act shall take effect as of January 1, 1958.

(Approved May 15, 1957.) **S.B. 840, Act 91.**

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### ACT 92

An Act Providing for the Binding and Publication of the Journals of the House of Representatives and Making Appropriation Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The journals of the House of Representatives of the Territory of Hawaii for the special session of 1954 and for the regular session of 1955 shall be prepared for printing by the clerk of the House for the Twenty-ninth Legislature and shall be printed in sufficient copies to satisfy the public need for these journals.

SECTION 2. The cost of preparing and printing these journals, in one or more volumes as is most feasible, shall be borne from any funds appropriated for the functioning of the House of Representatives under Act 1 of the Session Laws of Hawaii 1957 which are unexpended at the completion of the business of the Twenty-ninth Legislature. The use of such remaining balance is hereby authorized, the provisions of Section 4 of Act 1 to the contrary notwithstanding, and such remaining balance, if any, is hereby reappropriated for the purpose of this Act. There is hereby further appropriated from the general fund of the Territory the sum of \$12,500, or so much thereof as may be necessary for the purpose of this Act to supplement any such remaining balance under Act 1.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 15, 1957.) H.B. 766, Act 92.

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### ACT 93

An Act Amending Chapter 9A of the Revised Laws of Hawaii 1955, Section 9A-2(a) Thereof Pertaining to Wages and Hours of Employees on Public Works.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 9A-2(a) of Chapter 9A Revised Laws of Hawaii 1955 is hereby amended to read as follows:

“Sec. 9A-2(a). Every contract in excess of Two Thousand Dollars (\$2,000.00) to which a governmental contracting agency is a party, for construction of any public work, and the specifications for such contract, shall state the minimum wages which shall be paid to the various classes of laborers and mechanics engaged in the performance of such contract on the job site.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1957.) H.B. 1004, Act 93.

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### ACT 94

An Act Relating to Corporate Names and Amending Chapter 172 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Paragraph (a) of section 172-10, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“(a) The name of the corporation, which shall include as the last word thereof one of the words ‘Corporation’, ‘Incorporated’ or ‘Limited’ or one of the abbreviations ‘Corp.’, ‘Inc.’ or ‘Ltd.’.”

SECTION 2. This Act shall take effect upon its approval.

(Approved May 16, 1957.) S.B. 436, Act 94.

### ACT 95

An Act to Amend Section 191-4 of the Revised Laws of Hawaii 1955, Relating to Interest.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 191-4 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 191-4. Usury not recoverable.** If a greater rate of interest than one per cent per month is contracted for, the contract shall not, by reason thereof, be void. But if in any action on such contract proof is made that a greater rate of interest than one per cent per month has been directly or indirectly contracted for, the plaintiff shall only recover the principal and the defendant shall recover costs; **provided,** however, that any bank may charge, contract for, receive, collect in advance or recover interest, discount and other charges at the same rates and in the same amounts as permitted by law in the case of loans made by industrial loan companies licensed under the provisions of chapter 194, if in relation to the contract such bank shall be in compliance with sections 194-15 and 194-17 applicable to licensees under said chapter 194. If interest has been paid, judgment shall be for the principal less the amount of interest paid. This section shall not be held to apply to contracts for money lent upon bottomry bonds or upon other maritime risks nor to loans made under the provisions of chapter 194."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 17, 1957.) **S.B. 550, Act 95.**

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### ACT 96

An Act Authorizing Suit against the Territory by John G. Duarte for Claimed Losses Arising Out of a Contract for the Building of a Section of the Hana Belt Road.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. John G. Duarte is hereby authorized to file suit against the Territory of Hawaii on his claim for losses sustained, arising out of the contract of Char & Crozier for the building of a section of the Hana Belt Road.

SECTION 2. For the purpose of this Act and the adjudication of any such claim, the immunity of the Territory to suit is hereby waived and said John G. Duarte may proceed against the Territory as in the case of any other defendant, subject to the same procedures and defenses except for the defense of immunity from suit or of the statute of limitations the provisions of which are hereby expressly waived; **provided** that nothing contained herein shall be construed as an admission of liability on the part of the Territory.

SECTION 3. The claimant John G. Duarte shall commence the action authorized by this Act in the circuit court of the Territory of Hawaii within two years from the effective date of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 17, 1957.) **S.B. 713, Act 96.**

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### ACT 97

An Act Relating to the Purchase of Veteran's Mortgages.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 350-2**, Revised Laws of Hawaii 1955 is hereby amended by amending the last sentence thereof to read:

"The treasurer shall not pay for any veteran's mortgage an amount in excess of the market value thereof at the date of the written commitment of such purchase."

SECTION 2. This Act shall take effect upon its approval, **provided** however it shall not apply to a written commitment to purchase which has been entered into by the treasurer prior to the effective date of this Act.

(Approved May 17, 1957.) **S.B. 738, Act 97.**

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### ACT 98

An Act Relating to Fire Protection for Forest, Pasture and Brush Lands.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 19-51** of the Revised Laws of Hawaii 1955 is hereby amended by inserting after the words "forest reserves" found in line 4 of said section the words "and public shooting grounds".

SECTION 2. **Section 19-53** of the Revised Laws of Hawaii 1955 is hereby amended by inserting after the words "forest reserves" found in line 23 of the second paragraph of said section the words "and public shooting grounds".

SECTION 3. **Section 19-54** of the Revised Laws of Hawaii 1955 is hereby amended as follows:

(1) By inserting after the word "more" and before the period found in line 10 of the second paragraph the words "or as a public shooting ground for a period of five years or more".

(2) By inserting after the word "longer" and before the period found in line 6 of the third paragraph the words "or as a public shooting ground for a period of five years or more".

(3) By inserting after the words "forest reserve" wherever found in the second sentence of the third paragraph of said section 19-54, the words "or public shooting ground".

SECTION 4. This Act shall take effect upon its approval.

(Approved May 17, 1957.) **S.B. 635, Act 98.**

**ACT 99**

**An Act Relating to Employment of Employees and Salary Ordinance and Adding Two New Sections to Chapter 146 of the Revised Laws of Hawaii 1955.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** There are hereby added to chapter 146 of the Revised Laws of Hawaii 1955 two new sections to read as follows:

**"Sec. [146-12]. Employment without authorization prohibited; salaries fixed, how.** No officer, board or department shall appoint or employ any person in any position not previously authorized by ordinance or temporarily authorized by resolution for a period not to exceed sixty days pending amendment of the salary ordinance. The salary of all positions shall be as fixed by ordinance and applicable statutes.

**Sec. [146-13]. Salary ordinance, necessity, form.** Subject to chapters 3 and 4 and other applicable laws the number and ranges and rates of compensation for all positions, which term as used in this section includes offices, shall be established and enumerated in a salary ordinance, which shall be amended annually, or from time to time as necessary, to include all positions in county departments and offices under the legislative control of the board of supervisors which are continued or created by the board of supervisors in adopting each annual budget and each annual or supplementary appropriation resolution. Any amendment of the salary ordinance necessary to conform to the budget or to any annual or supplementary appropriation resolution shall be passed at the same time, as nearly as practicable, as such annual budget, or annual or supplementary appropriation resolution is passed. Such ordinance shall be subdivided for each department or office and each organization subdivision thereof. The number of positions enumerated therein shall be segregated by classes and the positions in any department or office under any such class shall not be listed individually or subdivided, except where necessary to show varying ranges of pay for employments included in any such class. Any increase or decrease in the number of positions allowed for any department or office and any changes resulting from reclassification of positions may be covered by amendment of the appropriate section of the salary ordinance. The rates of compensation fixed from time to time for positions which are not included within the compensation schedules established by chapter 4 shall likewise be established by appropriate amendments of the salary ordinance but increases in compensation allowed under the provisions of section 4-9 need not be set forth in detail in the ordinance. The said ordinance and applicable statutes shall constitute the legal basis for check as to the legality of the creation of or employment in any position in the county service and the rate of compensation fixed therefor."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 18, 1957.) **S.B. 560, Act 99.**



**ACT 100**

An Act to Amend Section 172-131 of the Revised Laws of Hawaii 1955  
Relating to Involuntary Dissolution of Corporations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 172-131 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 172-131. Involuntary; Ordered by Treasurer and Certification, Notice, Etc.** If any corporation has failed or neglected, for a period of two years, to file any annual exhibit as required by law; or if any corporation ceases to have any assets and fails to function as shown by the certificate, under oath, of any officer, director or manager of the corporation; or if the charter or Articles of Association of the corporation have expired and, within a period of two years, no application for renewal of the same has been filed in accordance with the provisions of this chapter, the treasurer may in any such event disincorporate the corporation or annul the articles of association or charter of incorporation of the corporation and declare the same dissolved, after giving notice of his intention to dissolve such corporation by mail at the last known address of such corporation appearing in the records of the treasurer's office and by publishing notice once in each of three successive weeks (three publications) in some newspaper of general circulation published in the Territory. In the event of any such corporation being declared dissolved, any trustee appointed to settle the affairs of the corporation shall pay to the Territory out of any funds which may come into his hands as trustee a sum equal to any penalty imposed under the provisions of section 172-115."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 20, 1957.) **S.B. 598, Act 100.**

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**ACT 101**

An Act Relating to Urban Redevelopment, Amending Chapter 143 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 143 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new section 143-20.1 to read as follows:

**"Sec. 143-20.1. Same, displaced persons.** Where the board and the redevelopment agency of a county find: (a) that there is a shortage of decent, safe and sanitary housing in the county; (b) that the provision of decent, safe and sanitary dwelling units for rent on undeveloped vacant land is necessary to accomplish the relocation of families displaced or to be displaced from areas acquired by governmental agencies for public purposes; and (c) that the acquisition of a particularly described area of such

developed vacant land (hereinafter also called an auxiliary redevelopment project), suitable for development for predominantly residential uses and so characterized in the master plan, is essential to provide for the development of dwelling units at rents such displaced families can afford, then the planning, acquisition, preparation for development or disposal of such auxiliary redevelopment area shall constitute a redevelopment project which may be undertaken by the agency in the manner provided by this chapter.

The procedure and exceptions set forth in section 143-20 shall apply to any such projects except that such areas and projects may be located outside the city of Honolulu in the city and county of Honolulu.

The agency shall sell or lease such land at its fair value for use in accordance with the redevelopment plan, such value to reflect the restrictions and covenants imposed on developers including restrictions on rent ceilings and modification thereof which the agency is hereby authorized to impose by regulation for a period of thirty years for such development in order to achieve private ownership and operation of such properties at a reasonable profit while providing for rentals which displaced families can afford."

SECTION 2. This Act shall take effect upon its approval.

(Vetoed by Governor May 2, 1957.)

(Veto overridden May 7, 1957 by Legislature.)

**H.B. 193, Act 101,**

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## ACT 102

An Act to Allow Credit for Time Spent in Military Service in the Employees' Retirement System of the Territory to Axel W. P. Jensen.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Axel W. P. Jensen is hereby given retirement credit for his military service for time spent beginning December 8, 1941 and ending August 14, 1946 which he would have normally been credited had he remained in the service of the Territory.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 20, 1957) H.B. 257, Act 102.

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## ACT 103

An Act Relating to Territorial Public Improvements and the Financing thereof by the Issuance of Revenue Bonds or from Current Revenues.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Authorization. There are hereby authorized to be issued by the board of harbor commissioners, as provided by part III of chapter 137 of the Revised Laws of Hawaii 1955, revenue bonds payable

solely from the revenues derived from the public undertakings herein-after designated, for the purposes hereinafter set forth, for which purposes the proceeds of sale of said bonds are hereby appropriated, that is:

### HARBOR AND WATERFRONT IMPROVEMENTS

(To be expended under the direction of the board of harbor commissioners)

1. For new overseas passenger and freight terminal to be located on a site between the ewa boundary of present pier 4 and the present pier 8, Honolulu Harbor, including plans, creation of filled land, improvements to land, and other necessary expenses .....\$6,500,000
2. For improvements to Pier 3, Hilo Harbor, Hawaii, including plans, dredging, construction of new wharf shed and other necessary expenses .....\$400,000  
**Provided,** however, that notwithstanding the limitation contained in the provisions of section 112-20, Revised Laws of Hawaii 1955, if moneys for the above harbor projects be available from revenues, expenditure of said sums or any portion thereof for these purposes is hereby authorized from the harbor board special fund without the necessity of resort to the issuance of revenue bonds therefor.
3. The construction of a small boat harbor at Port Allen, Kauai .....\$100,000

The public undertaking the revenues of which are hereby charged with the payment of the principal and interest of said bonds is hereby designated as follows, to wit: all of the harbor and waterfront improvements and other properties under the jurisdiction, control, and management of the board of harbor commissioners, except such as are principally used for recreation or the landing of fish but such exception shall not apply to the properties under the jurisdiction, control, and management of said board at Kewalo Basin, ewa of Ala Moana Park, Honolulu.

**SECTION 2.** The board of harbor commissioners, from the harbor board special fund, is hereby authorized to pay the costs of the issuance of the bonds authorized by this Act, and other preliminary expenses, including plans, surveys, and appraisals, for the harbor and waterfront improvements authorized by this Act.

In case the amount specified in any items of section 1 shall not be wholly required to complete the work on such item, the unrequired balance may, after completion of said work, or after it is definitely found that not more than a specified amount, less than the whole amount, will be required to complete said work, be expended for the work specified in another item. By resolution of the board of harbor commissioners, funds from the harbor board special fund may be used to supplement funds for any item.

**SECTION 3.** Authority to secure federal funds.

(a) Any provision of this Act or any other territorial law to the contrary notwithstanding, it is expressly provided that, in the event that it is found possible to secure federal funds made avail-

able under any act of said Congress to be expended in connection with or for the construction of any of the projects or works authorized by this Act (whether or not such item specifically provides for expenditure thereof in connection with federal funds), the proper territorial officer, charged with the expenditure of the funds appropriated by such item, shall have power to enter into such undertakings with the proper officers or agencies of the federal government, agree to such conditions, transfer the funds appropriated by this Act to such other officer, officers or agency (who are hereby given power to expend the same pursuant to this Act) for expenditure thereof, and do and perform such other acts and things as may be necessary, or be required by such acts of said Congress or any regulations or requirements of the federal government, as a condition to securing such federal funds for such projects or works.

(b) Any other provision of law to the contrary notwithstanding, any bonds issued under this Act may, with the approval of the governor, be deposited with and pledged to, or be otherwise disposed of to, the United States or any board, agency or instrumentality of the United States government, to secure the repayment, or in actual payment, of any loans or advances made or to be made, under any act or acts of the Congress of the United States authorizing such loans or advances by the United States or any such board, agency or instrumentality to the Territory for the construction in whole or in part, of any public works project authorized under this Act or the cost of which, or any portion thereof, would be payable or could legally be paid, out of the proceeds of such bonds if sold.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 21, 1957.) H.B. 471, Act 103.

## ACT 104

An Act Relating to the Kamehameha Day Celebration Commission making an Appropriation of \$30,100 for the 1957 and 1958 Celebrations and for a Moolelo Keia No Hawaii and Clerical Assistance and other Expenses.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby appropriated out of the general revenues of the Territory not otherwise appropriated the sum of \$30,100, so much thereof as may be necessary, to be expended by the Kamehameha Day celebration commission in the following manner:

(a) \$26,500 shall be used to defray the expenses of the Kamehameha Day celebrations of June 11, 1957 and 1958 to be allotted as follows:

- |  |          |
|--|----------|
| (1) Oahu .....   | \$13,000 |
| (2) Hawaii (excluding Kona, Kau, Hamakua and Kohala) ..... | 3,750    |

APPROPRIATION FOR KAMEHAMEHA DAY  
INSURANCE IN LOAN TRANSACTIONS

ACTS 104-105

(3)	Kona .....	1,250
(4)	Kau .....	750
(5)	Hamakua .....	750
(6)	North and South Kohala.....	1,000
(7)	Maui .....	2,500
(8)	Molokai .....	600
(9)	Lanai .....	200
(10)	Kalaupapa .....	200
(11)	Kauai .....	2,500

(b) \$3,600 for the biennium beginning July 1, 1957 and ending June 30, 1959, to be expended for the salary of a moololo keia no Hawaii (historian) to advise the commission in Hawaiian lore and custom that such may be preserved and practiced in the various activities of the Kamehameha Day celebrations. The moololo keia no Hawaii shall be a female of Hawaiian extraction, over 80 years of age, with actual personal acquaintance with the Kamehameha and Kalakaua dynasties, protocol, of traditions, customs and usage as they were practiced before the annexation of Hawaii, of the political history and personalities of Hawaii since 1900, and shall be an authority of the hula and other Hawaiian dances, songs and other forms of the culture of Hawaii. The moololo keia no Hawaii shall be appointed by the governor and shall be exempt from all civil service and classification laws.

SECTION 2. None of the funds appropriated under this Act shall be expended for "luaus", or other kind or kinds of parties.

SECTION 3. The amount herein appropriated to cover all expenditures of the Kamehameha Day celebrations of June 11, 1957 and 1958, shall be expended by the Kamehameha Day celebration commission as prescribed by Act 227 of the Session Laws of Hawaii 1939.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 22, 1957.) **H.B. 457, Act 104.**

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**ACT 105**

An Act to Amend Chapter 190A, Revised Laws of Hawaii 1955, Relating to Freedom of Choice of Insurance Companies by Borrowers from Lenders in Loan Transactions.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 190A, Revised Laws of Hawaii 1955, is hereby amended in the followed respects:

1. Amend **Sec. 190A-1** by changing the period at the end thereof to a semicolon and adding the following proviso:  
"provided, that this chapter shall not apply to group insurance under a policy issued to a creditor insuring debtors of the creditor pursuant to Sec. 181-563."

2. Amend **Sec. 190A-3** by deleting the words "principal or" appearing in the last line thereof.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 22, 1957.) **H.B. 248, Act 105.**

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### **ACT 106**

**An Act to Exempt Hansen's Disease Patients at Kalaupapa from Territorial Fishing Laws and Grant Authority to the Board of Health to Regulate Fishing in Kalawao County.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Notwithstanding any provision of law to the contrary, territorial laws on fishing shall not be applicable to Hansen's disease patients of Kalaupapa Settlement, provided such patients engage in fishing along the shorelines and in waters immediately adjacent to the County of Kalawao.

**SECTION 2.** No fish or other marine products obtained by patients may be sold outside of the County of Kalawao.

**SECTION 3.** The Board of Health shall adopt rules and regulations to control all fishing and acquisition of marine products by Hansen's disease patients.

**SECTION 4.** This Act shall take effect immediately upon its approval.

(Approved May 22, 1957.) **H.B. 820, Act 106.**

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### **ACT 107**

**An Act Relating to Suspensions of Public Officers and Employees.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** **Section 3-23** of the Revised Laws of Hawaii 1955 is hereby amended by adding a new sentence at the end of the first paragraph thereof to read as follows:

"Where an employee has been suspended pending an investigation or hearing of any charge against him and such charge is subsequently dropped or not substantiated, he shall be reinstated in his position without loss of pay."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 22, 1957.) **H.B. 107, Act 107.**

**ACT 108**

An Act to Amend Act 44 of the Session Laws of Hawaii 1955, Relating to the Employment, Compensation, and Retirement of Robert V. Kailianu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 1 of Act 44** of the Session Laws of Hawaii 1955 is hereby amended by amending the last sentence thereof to read as follows:

"He shall be employed under contract, and at the rate of pay which, added to any retirement benefit he might receive or might be receiving, will equal the rate of pay being received by him immediately prior to age seventy, provided that any act or joint resolution of the legislature of the Territory relating to the compensation of public employees shall apply to him."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1957.) **H.B. 216, Act 108.**

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**ACT 109**

An Act Relating to the Hawaii Water Authority, Amending Chapter 86, Revised Laws of Hawaii 1955, and Making Provisions for Amortization of Advances from the Territory from the Proceeds of General Obligation Bonds.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 86, Revised Laws of Hawaii 1955, is hereby amended in the following particulars:

a. by inserting in **section 86-7** thereof after the semicolon following the words "at pleasure" in the second paragraph thereof, the following:

"to exercise the power of eminent domain;"

b. by renumbering **sections 86-21** and **86-22** as sections 86-22 and 86-23, respectively.

c. by enacting a new section therein to be numbered 86-21 to read as follows:

**"Sec. 86-21. Repayment of certain territorial advances.** Whenever under legislative authorization, past, present or future, general obligation bonds of the Territory are issued or the proceeds of general obligation bonds of the Territory are used, by way of advancement, for the establishment and construction of any specific irrigation project under the jurisdiction of the authority, the authority shall repay the same to the territorial treasury in the following manner:

Upon the expiration of ten years from the time of initial irrigation service to the project, which ten-year term shall be the development period, the authority shall pay into the treasury from

its tolls and assessments on said project, as repayment on account of said advancement, equal annual payments over the period of the next succeeding forty years after the termination of the development period, the total of which payments shall be sufficient to reimburse the Territory for redemption of said bonds together with interest paid by the Territory in respect of the same.

The foregoing method of repayment of advances shall be effective for each phase of any multiphase project, the amortization period for the advancement commencing ten years from the time that facilities to provide irrigation service for each new project phase are put into operation.

In the event that changing use of the land in a project substantially increases revenues, or other circumstances make it reasonably possible or desirable for the authority to accelerate the amortization of advances, it shall be permitted to do so."

d. (1) by inserting in renumbered **section 86-23** thereof, after the comma following the word "project" in the third full sentence, the following:

"or for the establishment of any irrigation project,"

and (2) by deleting the last sentence of said section.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 22, 1957.) **H.B. 334, Act 109.**

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### ACT 110

An Act Relating to Civil Service and Classification and Amending Chapter 3 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Chapter 3 of the Revised Laws of Hawaii 1955 is amended by amending **Section 3-20** thereof by inserting therein two new exceptions which shall be appropriately lettered and read as follows:

"[(k-1)] Employees engaged in research projects approved by the governor, for which projects federal funds are available, provided however the period of employment shall not exceed one year.

[(m-1)] A custodian or guide at Iolani Palace, Royal Mausoleum and Hulihee Palace."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 22, 1957.) **H.B. 366, Act 110.**



**ACT 111**

**An Act to Amend Chapter 218 of the Revised Laws of Hawaii 1955 Relating to District Court Clerks.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** **Section 218-9** of the Revised Laws of Hawaii 1955 is hereby amended as follows:

(a) By inserting after the word "respectively" in the second line of the second paragraph the words "and upon the administrative magistrate of the rural Oahu district courts,"

(b) By adding a new paragraph between the second and third paragraphs to read as follows:

"Authority is also conferred upon the administrative magistrate of the rural Oahu district courts, subject to the approval of the chief justice, to provide and maintain an office in Honolulu where the clerk or clerks shall receive any document for filing in any of the rural Oahu district courts."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 22, 1957.) **H.B. 531, Act 111.**

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**ACT 112**

**An Act to Amend Chapter 170 of the Revised Laws of Hawaii 1955, Relating to Real Estate Brokers and Salesmen.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Chapter 170 of the Revised Laws of Hawaii, 1955 is hereby amended by adding thereto the following:

**"Section 170-11.5. Delivery of agreement.** When a licensee prepares or has prepared an agreement authorizing or employing such licensee to perform any of the acts for which he is required to hold a license, or when such licensee secures the signature of any party or parties to any contract pertaining to such services or transaction, he shall deliver a copy of such agreement or contract to the party or parties signing it, at the time the signature is obtained, provided that only one copy need be delivered to parties signing as co-tenants."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 22, 1957.) **H.B. 547, Act 112.**

### ACT 113

An Act Relating to the Farm Loan Board of Hawaii, and Amending Section 102-11, Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 102-11**, Revised Laws of Hawaii 1955, is hereby amended by adding after the words "United States" in the third line thereof, the following:

"or to a person who is eligible to become a citizen of the United States who has filed an application with the United States Immigration and Naturalization Service to become a citizen".

SECTION 2. This Act shall take effect upon approval.

(Approved May 22, 1957.) **H.B. 899, Act 113.**

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### ACT 114

An Act Relating to Public Boards and Commissioners.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Any other provision of law to the contrary notwithstanding, no person shall be allowed to serve on more than one board or commission of a public character, created by the Territory or any of its political subdivisions.

SECTION 2. The provisions of this Act shall not affect the present membership of public boards and commissions but shall apply to any appointments, whether for interim or regular terms, made subsequent to the effective date of this Act.

SECTION 3. The provisions of this Act shall not apply when in conflict with any provision of federal law.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 22, 1957.) **H.B. 964, Act 114.**

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### ACT 115

An Act Relating to Employment Security.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 93 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) Amend subsection (f) of **section 93-1** to read:

"(f) 'Director' means the director of labor and industrial relations of the Territory."

(b) Amend subsection (a) of **section 93-60** by substituting "director" for "commissioner" in the second sentence.

(c) Amend **section 93-69** by adding a new subsection to be appropriately numbered and to read:

"([e]) If the board determines that any reason exists why the collection of any contributions accrued will be jeopardized by delaying collection, it may make an immediate assessment thereof and the director may proceed to enforce collection immediately, but interest shall not begin to accrue upon any contributions until the date when such contributions would normally have become delinquent."

(d) Amend section 93-70 to read:

**"Sec. 93-70. Collection of delinquent contributions.** (a) Civil action. If any employer is in default in the payment of any contributions required to be paid by him pursuant to the provisions of this chapter, the director may, when the amount of such contributions with respect to which such employer is delinquent is determined, either by the report of the employer or by such assessment by the board, proceed to collect payment of the same by action in assumpsit, in his own name, on behalf of the Territory, for the amount of the contributions, costs, penalties and interest. In such actions the several district courts shall have concurrent jurisdiction with the circuit courts, irrespective of the amount claimed. Actions brought under this section shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the workmen's compensation law.

No proceedings in court for the collection of delinquent contributions shall be begun after the expiration of four years from the last day of the month following the last month of the quarter for which such contributions are due; provided, that in the case of a false or fraudulent return or the wilful failure to file a return with intent to evade the payment of contributions, a proceeding in court for the collection of such contributions may be begun at any time.

(b) Distraint. If the amount of contributions or interest assessed is not paid when due the director may collect payment of same by distress upon so much of the delinquent employer's goods, chattels, moneys, or intangibles represented by negotiable evidences of indebtedness, as he may deem sufficient to satisfy the payment of contributions due, penalties and interest if any, and the costs and expenses of such distress. In the case of moneys, distress shall be effected by seizure, and in other cases distress shall be effected by seizure and sale of the property. The director shall take possession and keep the distrained property until the sale. After taking possession, he shall sell the delinquent employer's interest in the property at public auction after first giving fifteen days' public notice of the time and place of the sale by publication at least once in a newspaper, published in the county where the sale is to be held, or by posting such notice in at least three public places in the county where the sale is to be held. The director may require the assistance of any sheriff or authorized police officer

of any county to aid in the seizure and sale of said distrained personal property. The director may further retain the services of any person competent and qualified to aid in the sale of said distrained personal property, provided that the consent of the delinquent employer is obtained. Any sheriff or such person so retained by the director shall be paid a fair and reasonable fee but in no case shall such fee exceed ten per cent of the gross proceeds of the sale. Any person other than a sheriff so retained by the director to assist him may be required to furnish a bond in an amount to be determined by the director. Such fees and the cost of the bond shall constitute a part of the costs and expenses of the distress.

The sale shall take place within twenty days after seizure; **provided**, that by public announcement at the sale, or at the time and place previously set for the sale, it may be extended for one week. Any further extension of the sale shall be with the consent of the delinquent employer. The sale shall, in any event, be completed within forty-five days after seizure of the property. Sufficient property shall be sold to pay all contributions, penalties, interest, costs and expenses. On payment of the price bid for any property sold, the delivery thereof with a bill of sale from the director shall vest the title of the property in the purchaser. No charge shall be made for the bill of sale. All surplus received upon any sale after the payment of the contributions, penalties, interest, costs and expenses, shall be returned to the owner of the property sold, and until claimed shall be deposited in the director's office subject to the order of the owner. Any unsold portion of the property seized may be left at the place of sale at the risk of the owner. If the owner of the property seized desires to retain or regain possession thereof, he may give a sufficient bond and surety to produce the property at the time and place of sale, or pay all contributions, penalties, interest, costs and expenses.

(c) Liens, foreclosure, joinder of director as party defendant.  
(1) Lien on property used in business. The claim of the board for any contributions, including interest thereon, not paid when due, shall be a paramount lien against all parties whose interest arose after the recordation of a certificate of such lien upon the personal property used in the business or occupation of the employer. In addition to court proceeding, such lien may be foreclosed by distraint as provided under this section.

(2) Lien on land. For the more effective collection of delinquent contributions, the director may file in the office of the registrar of conveyances a certificate setting forth (i) the name and address of the employer, (ii) the amount of the unpaid contributions, penalties and interest, computed to the date of the certificate, and (iii) such further information as may be required by chapter 342 to procure a lien on registered land. Such certificate shall be recorded in a book provided for the purpose and thereafter the unpaid contributions, penalties and interest, together with any penalties or interest further accruing, shall constitute a lien upon all the land of the employer, both registered and unregistered,

within the Territory. Such lien shall be a paramount lien as against all parties whose interest arose after the recordation of the certificate, and may be foreclosed in a court of equity, except such land as may be exempt from levy and sale on execution under the provisions of section 233-64. Upon the payment of the contributions, penalties and interest, or of a portion thereof, the director shall certify in duplicate the fact and amount of payment and the balance due, if any, and shall forward these certificates, one to the employer and one to the registrar. The registrar shall record such partial or total release, as the case may be, and thereafter the land of the employer within the Territory shall only be subject to a lien for any balance remaining unpaid.

(3) Joinder of director as party defendant when Territory claims liens. The director may be named a party defendant in any civil action at law or in equity in any territorial court of competent jurisdiction or in the district court of the United States for the district of Hawaii, to quiet title to or for the foreclosure of a mortgage or other lien upon real or personal property on which the Territory has or claims a lien under this chapter; **provided**, that the jurisdiction herein conferred shall be limited and shall not operate as a consent by the Territory to be sued as to its claim of title to or liens and encumbrances on real and personal property other than the liens aforementioned.

Service upon the director shall be made by serving copies of the summons and complaint upon the director or his duly authorized representative and by sending copies of the summons and complaint by registered mail to the attorney general. In such actions the director may appear and answer, demur or otherwise plead within the time allowed a defendant to so plead in the particular court, or within such further time as the court may allow. In any such action as herein contemplated, the director may ask, by way of affirmative relief, for the foreclosure of the aforementioned liens, but in the absence of such request for affirmative relief, upon any foreclosure sale the property shall be sold subject to the liens. **Provided**, that nothing in this section shall preclude the director from asking for such other and further relief as might have been claimed by intervention in the action."

SECTION 2. This Act shall take effect on July 1, 1957.

(Approved May 22, 1957.) H.B. 982, Act 115.

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### ACT 116

An Act to Amend Section 296-1 of the Revised Laws of Hawaii 1955,  
Relating to Malicious Injury.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 296-1 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 296-1. Malicious injury defined; penalty.** Whoever wilfully or maliciously destroys or injures any real or personal property of another, or injures or disturbs another of any of his rights or privileges of person or property shall be deemed guilty of malicious injury and shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1957.) S.B. 64, Act 116.

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### ACT 117

An Act Relating to the Employment of Doctor Max Levine.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Dr. Max Levine may be continued in his present position in the service of the Territory of Hawaii after he reaches the age of seventy years. He shall be employed under contract, and at the rate of pay which, added to any territorial retirement benefits that he might receive or might be receiving, will equal the rate of pay being received by him immediately prior to age seventy, until otherwise provided by the legislature of the Territory of Hawaii.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1957.) S.B. 384, Act 117.

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### ACT 118

An Act Relating to the Election of Supervisors in the County of Hawaii, and Amending Section 146-3 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 146-3 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 146-3. Hawaii supervisors; number; election; tenure; chairman.** The board of supervisors of the county of Hawaii shall consist of seven members, all of whom shall be elected from among those who have been qualified electors of the county for at least two years prior to their election, and all of whom shall be elected in the following prescribed manner: three from the first senatorial district; three from the second senatorial district; and one at large. Six of such officers shall be elected as members only, while the seventh who is elected at large shall be chairman and executive officer of the board."

SECTION 2. This Act shall take effect upon its approval, and shall apply to elections to be held in conjunction with elections of members to the Thirtieth Legislature of the Territory of Hawaii and thereafter.

(Approved May 22, 1957.) S.B. 623, Act 118.

**ACT 119**

An Act Amending Section 68-9 of the Revised Laws of Hawaii 1955, Relating to Grounds for Refusal to Permit Examination or Issuance of Certificates to Optometrists.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 68-9 of the Revised Laws of Hawaii 1955 is hereby amended in the following manner:

1. By amending subparagraph (d) thereof to read as follows:

“(d) Advertising in the following manner: (1) at a stipulated price, or any variation of such a price or as being free, any of the following: the examination or treatment of the eyes, the furnishing of optometric services; or the furnishing of a lens, lenses, glasses, or the frames or fittings thereof; (2) by any means whatsoever, directly or indirectly, to offer lens, lenses, glasses, or the frames or fittings thereof at a discount or as a premium for the purchase of any article of merchandise; (3) by means of false and deceptive statements or by statements which tend to deceive or defraud; or to claim superiority over fellow optometrists; or to publish reports of cases or certificates of same in any public advertising media; (4) in conjunction with any non-licensed person or groups of individuals by permitting the use of his name, professional title, or profession.”

2. By amending subparagraph (g) thereof to read as follows:

“(g) Renting space, subleasing departments, or otherwise occupying space to practice optometry on the premises of a commercial (mercantile) concern. Optometric practices must be under the registered optometrist's ownership and under his exclusive control. It must not be in conjunction with a scheme or plan with a commercial (mercantile) concern. The prescription files must be the sole property of the optometrist. The office must be definite and apart from the space occupied by any commercial (mercantile) concern so that all signs are separate and distinct from such commercial (mercantile) concern and all entrances to the premises must be separate and definite in character such that there could be no misleading interpretation that his practice is in any way associated with a commercial (mercantile) concern.”

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 22, 1957.) **S.B. 626, Act 119.**

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**ACT 120**

An Act Relating to Banks and Amending Chapter 178 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Chapter 178 of the Revised Laws of Hawaii 1955 is

hereby amended by adding thereto a new section to be appropriately numbered and to read as follows:

**"Sec. [178-23.5]. Saturday closing.** No bank organized under the laws of, or doing business in, this Territory shall be under obligation to permit the withdrawal on Saturday of funds on deposit, or to keep its banking house or any branch or office thereof open for the transaction of business on Saturday, or to permit access to its safe deposit vaults on Saturday; and if any such bank or branch or office thereof elects to close on Saturday, then any act appointed by law or contract, or in any other way, to be performed on Saturday by any such bank or branch or office thereof, whether acting in its own behalf or in any capacity whatsoever, may be performed upon the next succeeding business day. Any act to be performed on Saturday at a bank or branch or office thereof may be performed on the next succeeding business day if the bank or branch or office thereof at which such act is to be performed is closed on Saturday, and no liability or loss of rights of any kind shall result from such delay."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1957.) **S.B. 630, Act 120.**

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### ACT 121

An Act to Amend Section 178-49 of the Revised Laws of Hawaii 1955, Relating to Examinations by Bank Auditors.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 178-49** of the Revised Laws of Hawaii 1955 is hereby amended by amending the first sentence thereof to read as follows:

"Twice at least in every year, or at such less frequent intervals as the bank examiner shall approve, but in no case less often than once in every year, every bank shall be examined by an auditor or auditors who shall be elected annually by the shareholders of the bank in general meeting."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1957.) **S.B. 753, Act 121.**

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### ACT 122

An Act Relating to the Fund Known as the "Shop Revolving Fund and Handicraft".

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The fund known as the "Shop Revolving Fund and Handicraft" transferred to the bureau of sight conservation by Act 113, Session Laws of Hawaii 1945, shall hereafter be known as the "Blind



Shop Revolving and Handicraft Fund" and shall not be used for any purpose other than the operation of the workshop for the blind.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1957.) **S.B. 786, Act 122.**

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### ACT 123

An Act Relating to Wills and Amending Chapter 322 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 322 of the Revised Laws of Hawaii 1955 is amended by adding a new subsection thereof to read as follows:

**"Sec. 322-3.5. Incorporation by reference.** An existing document, book, record, or memorandum may be incorporated in a will by reference, if referred to as being in existence at the time the will is executed. Such document, book, record, or memorandum shall be deposited in the probate court when the will is probated or within thirty days thereafter, unless the court grants an extension of time for good cause shown. A copy may be substituted for the original document, book, record, or memorandum if such copy is certified to be correct by a person authorized to take acknowledgments on deeds."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 22, 1957.) **H.B. 97, Act 123.**

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### ACT 124

An Act Relating to the Power of the District Court Clerks to Issue Writs of Subpoena and Amending Section 222-1 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 22-1 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 222-1. Subpoena, issue of.** The clerks of the several courts of record and of the several district courts shall issue to the attorney general or to the high sheriff or to any other prosecuting officer, and to any party plaintiff or defendant, in any cause, civil or criminal pending before such courts, or to the counsel of such party, writs of subpoena for witnesses, in blank, that the names of the witnesses to be summoned may be inserted after the issuing of such writs."

SECTION 2. This Act shall take effect on July 1, 1957.

(Approved May 23, 1957.) **S.B. 134, Act 124.**

**ACT 125**

An Act Providing for the Correction of Unsanitary Conditions at Paiko Lagoon Located Near Paiko Drive, City and County of Honolulu, Territory of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Findings. The legislature finds that because of tide action and other factors, Paiko Lagoon has become a mud flat at low tide creating an unhealthful condition which affects the surrounding property and its owners. The territorial board of health has classified the area as unsanitary and the Federal housing administration has notified said property owners that it will make no further loans on property in this area until such conditions are corrected. The various governmental agencies and the surrounding property owners are without the authorization or funds to take action to alleviate said conditions. It is the intent of this Act to provide a means for alleviating said conditions on a self-liquidating basis, it appearing that the cost thereof may be financed by the sale of material excavated from the lagoon.

SECTION 2. The board of harbor commissioners is hereby designated as the authority to undertake the excavating of said lagoon, the sale of the material removed therefrom, and the awarding of a contract to conduct this operation. In order to temporarily finance said operation, said board is hereby authorized to advance from the current revenues of the harbor board special funds an amount not to exceed five thousand dollars (\$5,000.00) to cover costs of plans and specifications, engineering costs and costs of calling for bids in connection with said operation. Said plans and specifications shall be submitted to and shall not be advertised for bids unless approved by the territorial board of health and the Area Engineer Corps of Engineers, U. S. Army.

SECTION 3. Before awarding a contract to conduct said operation, the board of harbor commissioners shall and it is hereby authorized to make agreements with one or more persons for the purchase of the excavated material. Said purchaser or purchasers shall pay in advance to the board of harbor commissioners the entire purchase price. Said payment or payments when received by the board of harbor commissioners shall be deposited with the territorial treasurer in a special fund to be designated as "Paiko Lagoon Improvement Fund", which fund is hereby appropriated for said operation. The price at which the excavated material shall be sold shall be an amount not less than the cost of the contract to conduct said operation, plus a sum sufficient to reimburse the board of harbor commissioners for its initial advance as authorized under Section 2 hereof and any other expenses incurred by said board in connection with said operation.

SECTION 4. Upon receipt of sufficient funds to cover the expenses as outlined in Section 3 hereof, the board of harbor commissioners may award a contract to conduct said operation. Said contract shall conform to the laws and regulations of the Territory of Hawaii governing public works contracts. If the amount of said funds shall exceed the cost of said operation, the balance shall be paid over to the board of harbor

commissioners who shall use the said balance for the further improvement of said Paiko Lagoon.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 23, 1957.) S.B. 498, Act 125.

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### ACT 126

An Act to Amend Act 151 of the Session Laws of Hawaii 1955, Relating to the Compensation of Certain Cafeteria Managers in the Department of Public Instruction.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1 of Act 151 of the Session Laws of Hawaii 1955 is hereby amended to read as follows:

“SECTION 1. The provisions of chapters 3 and 4 of the Revised Laws of Hawaii 1955, to the contrary notwithstanding, any cafeteria manager employed in the department of public instruction who is a normal school graduate and who is otherwise qualified to be a teacher, shall from and after the effective date of this Act, receive compensation as provided by the teacher's salary schedule.”

SECTION 2. Section 2 of Act 151 of the Session Laws of Hawaii 1955 is hereby deleted.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 23, 1957.) S.B. 741, Act 126.

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### ACT 127

An Act to Amend Section 178-46 of the Revised Laws of Hawaii 1955, Relating to Meetings of Bank Directors.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 178-46 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

“Sec. 178-46. Directors' meetings; examination of reports. The board of directors of every bank shall hold a regular meeting at least once every month. At every such meeting the president or cashier shall submit a detailed report showing every loan and investment which exceeds in amount one-half of one per cent of the capital and surplus of the bank or \$25,000, whichever is the lesser, made during the preceding month or since the last report, also a separate report of all loans made to any officer, director or employee, whether made direct or indirect or contingent, and the amount of security held therefor, unless an advisory, discount or

executive committee, the majority of whom are not active officers of the bank, shall make and file a written report stating that the committee has examined such detailed report and approved thereof, or stating its disapproval of any item appearing therein. The board of directors shall examine and pass upon such written report or the report of such advisory, discount or executive committee and make the same a part of the record of their meeting by recording the same in the minutes, and such record shall show their approval or disapproval."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1957.) **S.B. 747, Act 127.**

### ACT 128

An Act to Amend Section 155-16 of the Revised Laws of Hawaii 1955, Relating to Business Licenses and Fees Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 155-16** of the Revised Laws of Hawaii 1955 is hereby amended by amending paragraph (b) thereof to read as follows:

"(b) To increase, decrease, or waive, effective upon the expiration of any existing license, the annual fee for a license issued under this chapter, except as provided in paragraph (d), or to exempt, wholly or partially, the payment by any religious, charitable or educational organization or institution of any license fee imposed in this chapter or any ordinance enacted hereunder with respect to any business which is not regularly engaged in or carried on by such organization or institution."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1957.) **S.B. 788, Act 128.**

### ACT 129

An Act Authorizing the Levy and Imposition of Service Charge on Special Funds and Providing for the Appropriation of Such Service Charge.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The board of supervisors of the city and county of Honolulu is hereby authorized and empowered to levy and impose a service charge of five per cent on the revenues of each special fund save and except pension or retirement funds, funds set aside for the redemption of bonds or the payment of interest thereon, private trust funds, special assessment funds, loan funds, revolving funds, utilities working capital funds, and federal-aid school construction funds or any other federal-aid funds. The amount of such service charge shall be appro-

priated for payment to the general fund of the city and county of Honolulu.

SECTION 2. The board of supervisors of each of the counties of Hawaii, Kauai and Maui is hereby authorized and empowered to levy and impose a service charge of five per cent on the revenues of each special fund of the respective counties save and except pension or retirement funds, funds set aside for the redemption of bonds or the payment of interest thereon, private trust funds, special assessment funds, loan funds, and funds which are financed by or receive supplementing revenues from the general fund of each such county. The amount of such service charge shall be appropriated for payment to the general fund of each of the said counties.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 23, 1957.) S.B. 794, Act 129.

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### ACT 130

An Act Amending Chapter 70 of the Revised Laws of Hawaii 1955, Relating to Consultations and Providing for the Recognition of the Certificate of the National Board of Examiners for Osteopathic Physicians and Surgeons.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 70-1** of the Revised Laws of Hawaii 1955, is hereby amended by adding a new paragraph thereto to read as follows:

"Provided nothing herein shall apply to any osteopathic physician or surgeon from another state who is in actual consultation with a licensed physician of this Territory if such physician from another state is licensed to practice in the state in which he resides; **provided**, however, that such physician from another state shall not open an office, or administer treatment to any patient except in actual temporary consultation with a resident licensed physician of the Territory."

SECTION 2. **Section 70-9** of the Revised Laws of Hawaii 1955, is hereby amended by adding thereto a new paragraph to be designated (e) and to read as follows:

"(e). The board of osteopathic examiners may also, in its discretion, accept the examination of the national board of examiners for osteopathic physicians and surgeons in lieu of its own examination and may report favorably and require the issuance of a license to an applicant presenting a certificate from the national board of examiners for osteopathic physicians and surgeons upon the basis of the examination of the national board provided such applicant otherwise meets the requirements of the law of this Territory."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 23, 1957.) H.B. 906, Act 130.

### ACT 131

An Act Relating to Burial of Veterans, Amending Section 348-2 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 348-2 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 348-2. Supervisors' responsibility.** The board of supervisors of the counties of Hawaii, Kauai, and Maui shall each provide for the establishment of the veterans' cemetery or cemeteries to be located within their respective counties, and shall make provisions for their maintenance and upkeep. They shall each provide for the interment of the remains of (1) residents of their respective counties who died while in the armed forces of the United States and (2) of honorably discharged veterans of the armed forces of the United States with either peacetime or war-time service and who are residents of their respective counties at the time of death and (3) of the widows, widowers or minor children of such deceased servicemen or veterans and (4) of the wife, husband, or minor children who predeceases a serviceman or veteran who would be himself entitled to interment provided that he must subscribe to a statement that he himself will be so interred in the same veterans' cemetery. As used in this section, 'establishment' includes grading, filling, leveling, platting, paving of roadways and walks, installation of curbs, building of fences, planting of grass, trees and shrubs, erection of memorial buildings and monuments, and building of other necessary or convenient structures."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1957.) **H.B. 1071, Act 131.**

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### ACT 132

An Act to Amend Paragraph (c) of Section 144-2 of Revised Laws of Hawaii 1955 Relating to the General Powers and Limitations of the Counties of Hawaii, Kauai and Maui.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Paragraph (c) of **Section 144-2** of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"(c). Public works, generally. To construct, purchase, take on lease, lease, sublease, or in any other manner acquire, manage or dispose of buildings for county purposes, sewers, pumping stations, water works, including reservoirs, wells, pipe lines and other conduits for distributing water to the public, lighting plants, apparatus and appliances for lighting streets and public buildings; to acquire and maintain apparatus for extinguishing fires; to open,

construct, maintain and close up public streets, highways, roads, alleys, trails, bridges and tunnels within its boundaries."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1957.) **H.B. 1218, Act 132.**

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### ACT 133

An Act Relating to Workmen's Compensation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 97, Revised Laws of Hawaii 1955, is hereby amended in the following respects:

(a) By amending the paragraph entitled "Scope and time of payment" in subsection (a) of **section 97-26** to read:

"Scope and time of payment. The compensation for the foregoing specific injuries shall be in lieu of all other compensation except the benefits provided in sections 97-22 and 97-25; **provided** that payments of compensation under this section shall not commence until after the periods of temporary total disability or temporary partial disability have terminated."

(b) By substituting for the words "six months" whenever they appear in section 97-52 the words "one year."

(c) By amending the fourth paragraph of **section 97-80** to read:

"On June 30 and December 31 of each year the employer shall make a report to the director with respect to each injury on which he is continuing to pay compensation or expenses under section 97-22 showing all amounts theretofore paid by him on account of such injury."

SECTION 2. This Act shall take effect on July 1, 1957.

(Approved May 23, 1957.) **H.B. 434, Act 133.**

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### ACT 134

An Act Relating to Workmen's Compensation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 97, Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) By substituting for the words "territorial treasury and be a special fund for the use of the bureau" in the first sentence in section 97-92 the words "special compensation fund created by section 97-99".

(b) By adding a new subsection following section 97-26.5, to be appropriately numbered and to read:

"**Sec. [97-26.7].** The director may, in his discretion and to the extent he determines to be advisable after consideration of current

commitments payable from the special compensation fund, make payments from such fund for compensation and medical expenses under any award heretofore or hereafter made in any case of disability where there has been default in the payment of compensation or the furnishing of medical care if the director determines that the liable employer (a) has failed to secure compensation to his employees and (b) is financially unable to pay compensation or furnish medical care. Expenditures shall not exceed \$1000 in any one case. The employer against whom the award was made shall be liable for payment into such fund of the amounts paid therefrom by the director under the authority of this section, and for the purposes of enforcing this liability the director, for the benefit of said fund, shall be subrogated to all the rights of the person receiving such payment."

SECTION 2. Any funds remaining in the special fund referred to in **section 97-92** shall, upon the effective date of this Act, be transferred to the special compensation fund.

SECTION 3. This Act shall take effect on July 1, 1957.

(Approved May 23, 1957.) **H.B. 435, Act 134.**

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### ACT 135

An Act Relating to the Department of Labor, and Amending Sections 88-6 and 88-18, Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Sec. 88-6 (c)**, Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"(c) The bureau of research and statistics, which shall collect and assemble statistics relating to labor and industrial relations, and shall also collect, assemble and furnish information to employers and employees regarding group life insurance plans and group medical hospitalization and health insurance plans and pension and retirement plans, and shall assist employers and employees in establishing such plans."

SECTION 2. **Sec. 88-18**, Revised Laws of Hawaii 1955, is hereby amended by adding a new subsection, to be numbered 88-18 (d), and to read as follows:

"(d) The bureau of research and statistics shall collect, assemble and furnish information regarding group life insurance plans, group medical, hospitalization and health insurance plans, and pension and retirement plans, at the request of any employer or employee. Upon the request of any employer or employee, the bureau shall undertake a study of the feasibility of establishing any or all of such plans for such persons as may be designated by the employer or employee making the request. If the bureau determines that it will be feasible to establish such plan or plans



for the persons so designated, it shall render all necessary assistance to the persons who will be included in such plan or plans, including but not limited to such matters as negotiating for and on behalf of such persons with insurance companies, and drafting of contracts and agreements. If the bureau determines that it will not be feasible to establish such plan or plans for the persons designated because of the small number or the diversity of occupations within the group or for any other reason, the bureau shall actively solicit the participation of as many other employers and employees within the Territory as may be necessary to form a group or groups for which it shall be feasible to establish the plan or plans contemplated by the employer or employee who made the original request, and shall furnish all necessary assistance in similar manner.

The commission shall adopt all necessary rules and regulations to carry out the purposes of this section."

SECTION 3. This Act shall take effect upon approval.

(Approved May 23, 1957.) H.B. 946, Act 135.

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### ACT 136

An Act to Amend Section 267-24 of the Revised Laws of Hawaii 1955, Relating to Intruding on School Premises.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 267-24 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 267-24. Intruding, loitering, loafing, or idling on school premises; penalty.** Any person intruding, or loitering, or loafing, or idling, without proper authority upon the premises of any school, public or private, including any female boarding school, Kawaihoa Girls' Home, and school dormitories, may be arrested by any police officer, without any warrant, and on the complaint of the principal or other person in charge of the school, or of any trustee of the same; upon conviction thereof he shall be fined not more than \$200 or imprisoned not more than six months, or both. Nothing in this section shall be construed (a) to preclude the right of the parent, or legal guardian, or other person having written permission of the parent to take custody of a student during regular school hours, and (b) to preclude the punishment of the offender for any other offense committed on the premises, nor of the right of action for civil damages."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 23, 1957.) H.B. 975, Act 136.

### ACT 137

An Act Relating to Payment of Wages.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 95 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) Amend section 95-1 to read:

**"Sec. 95-1. Wages to be paid when.** The earned wages of all employees shall be due and payable within fifteen days after the end of each pay period, except that: (1) the earned wages of all employees discharged by the employer either with or without cause shall be immediately due and payable upon discharge; (2) if an employee leaves his employment voluntarily, his earned wages shall be due and payable on the next regular pay day; (3) where work is suspended as a result of a labor dispute, the wages of all employees earned to the date of such suspension shall become due and payable at the next regular pay day."

(b) Amend Section 95-3 to read:

**"Sec. 95-3. (a) Fines, deduction and collection of.** No fines shall be collected, deducted or retained by any person out of any compensation earned by any employee. **(b) Cash shortage, breakage, deductions for.** No deductions shall be made by any person out of any compensation earned by any employee for cash shortage in a common money till, cash box or register used by two or more employees, or for breakage."

(c) Amend section 95-4 to read:

**"Sec. 95-4. Wages, deductions from.** It shall be unlawful for any person to deduct and retain any part or portion of any compensation earned by any employee except where required by federal or territorial statute or by court process or when such deductions are authorized in writing by the employee, **provided** that deductions for fines, cash shortage in a common money till, cash box or register used by two or more employees, or breakage may not be so authorized."

SECTION 2. This Act shall take effect on July 1, 1957.

(Approved May 23, 1957.) H.B. 999, Act 137.

### ACT 138

An Act Relating to the Statute of Limitations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 241-7 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 241-7. Damage to persons or property.** Actions for the

recovery of compensation for damages or injury to persons or property shall be instituted within two years after the cause of action accrued, and not after, except as provided in **section 241-12.**"  
**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 23, 1957.) **H.B. 1239, Act 138.**

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### **ACT 139**

An Act to Amend Chapter 138 of the Revised Laws of Hawaii 1955,  
Relating to General Provisions Common to All Counties.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Chapter 138 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new section to be appropriately numbered and to read as follows:

"**Sec. [138-11.5].** The governing body or the planning commission of the various counties, with the consent of the boards of supervisors, may enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with the Federal Government or any other public body or bodies respecting action to be taken pursuant to any of the powers granted to it by law and furnish, expend and/or receive any funds or other assistance in connection with projects being or to be undertaken pursuant to such powers."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 24, 1957.) **H.B. 440, Act 139.**

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### **ACT 140**

An Act to Amend Chapter 51 of the Revised Laws of Hawaii, 1955,  
Relating to Adulteration and Tolerances for Pesticide Chemicals.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** **Section 51-9 (a) (2)** of the Revised Laws of Hawaii, 1955, is hereby amended to read as follows:

"If it bear or contain any added poisonous or added deleterious substance, except a pesticide chemical in or on a raw agricultural commodity, which is unsafe within the meaning of **section 51-13**, or if it be a raw agricultural commodity and it bear or contain a pesticide chemical which is unsafe within the meaning of **section 51-13.5.**"

**SECTION 2.** Chapter 51 of the Revised Laws of Hawaii, 1955, is hereby amended by adding a new section to read as follows:

"**Sec. 51-13.5. Tolerances for pesticide chemicals in or on raw agricultural commodities.** Any poisonous or deleterious pesticide

chemical, or any pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, added to a raw agricultural commodity, shall be deemed unsafe for the purposes of the application of clause (2) of **section 51-9 (a)** unless:

(1) A tolerance for such pesticide chemical in or on the raw agricultural commodity has been prescribed under Section 408 of the Federal Act and the Quantity of such pesticide chemical in or on the raw agricultural commodity is within the limits of the tolerance so prescribed; or

(2) With respect to use in or on such raw agricultural commodity, the pesticide chemical has been exempted from the requirement of a tolerance under Section 408 of the Federal Act."

**SECTION 3.** This Act shall take effect upon its approval.

(Approved May 24, 1957.) **H.B. 532, Act 140.**

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## ACT 141

An Act to Provide for Retroactive Salary Adjustments for Officers and Employees of the Counties of Hawaii, Maui and Kauai.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Chapter 4, Revised Laws of Hawaii 1955, is hereby amended by adding a new section thereto to be appropriately numbered and to read as follows:

**"Sec. [4-33]. Salary adjustments retroactive.** Any officer or employee of the counties of Hawaii, Maui or Kauai whose position was, or in the future is, as the result of a classification action taken by the director, reallocated to a class in a higher salary range, or whose class is reassigned to a higher salary range solely upon the basis of the duties and responsibilities of his position as the same were on July 1, 1955, shall, notwithstanding the date such classification action is taken, receive the salary for the new class, or new salary range, retroactively to March 16, 1956."

**SECTION 2.** This Act shall be liberally construed to give officers and employees of the counties of Hawaii, Maui and Kauai the full benefit of the pay and classification actions under Act 274 of the Session Laws of Hawaii 1955 and to afford them full retroactive compensation as of March 16, 1956.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved May 24, 1957.) **S.B. 148, Act 141.**

**ACT 142**

An Act Relating to Public Assistance for Children, and Amending Section 108-34 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 108-34**, paragraph (d), of the Revised Laws of Hawaii 1955, is hereby amended by striking out "or aunt" as the same appears on line 3 and inserting in lieu thereof "aunt, first cousin, nephew, or niece".

SECTION 2. This Act shall take effect on July 1, 1957.

(Approved May 24, 1957.) **S.B. 965, Act 142.**

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**ACT 143**

An Act Relating to the Employees' Retirement System of the Territory of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 6-20** of the Revised Laws of Hawaii 1955 is hereby amended by adding a new item to read as follows:

"'Social Security benefit': the old age insurance benefit payable after age 65 or the disability insurance benefit under Title II of the Social Security Act, to which the member is entitled or would be entitled upon proper application."

SECTION 2. **Section 6-23** of the Revised Laws of Hawaii 1955 is hereby amended:

(a) by amending the last sentence of the third paragraph thereof to read as follows:

"No member shall receive any pension or retirement allowance from any other pension or retirement system supported wholly or in part by the Territory or any county except such benefit as shall be provided by Title II of the Federal Social Security Act."

(b) by adding thereto a new paragraph reading as follows:

"There shall be two classes of members in the system, to be known as Class A members and Class B members, and to be defined as follows:

(a) Class A members shall be those members who are covered by the provisions of Title II of the Federal Social Security Act on account of service creditable under this chapter. Such Class A members shall consist of all employees who enter the membership on and after the date the retirement system is divided in accordance with section 6-191.5 except employees in positions to which coverage under Title II of the Social Security Act is not extended, and shall include any employee who was a member on such date and who prior to such date, on a form approved by the board, elects to be covered by said Social Security Act and the supplementary benefits provided by this chapter, as amended, in lieu of

the benefits provided by this chapter, as it heretofore existed, and agrees to the deduction of his accrued Social Security taxes, if any, from the accumulated contributions held in his account in the annuity savings fund.

(b) Class B members shall consist of all other members of the retirement system."

SECTION 3. Section 6-42 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 6-42. Allowance on service retirement.** Except as otherwise provided in section 6-41, upon retirement for service a member shall receive a service retirement allowance which shall consist of: (a) an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and (b) a pension, in addition to his annuity, which shall be equal to one one-hundred-fortieth of his average final compensation multiplied by the number of years of his membership service, except that if the member is a Class A member such pension payable subsequent to the attainment of age sixty-five shall be reduced by one two-hundred-eightieth of the part of his average final compensation not in excess of four thousand two hundred dollars per annum multiplied by the number of years of his membership service subsequent to December 31, 1955; and (c) if he has a prior service certificate in full force and effect, an additional pension which shall be equal to one-seventieth of his average final compensation multiplied by the number of years of service certified to him on his prior service certificate."

SECTION 4. Section 6-45 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 6-45. Allowance on disability retirement.** Upon retirement for disability a member shall receive a service retirement allowance if he has attained the age of sixty years; otherwise he shall receive a disability retirement allowance which shall consist of (a) an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of retirement; and (b) a pension which shall be equal to ninety per centum of one one-hundred-fortieth of his average final compensation multiplied by the number of years of membership service that would have been rendered by him were his service to continue to age sixty, except that if a member is a Class A member such pension payable subsequent to the time when the member becomes eligible for a Social Security benefit shall be reduced by ninety per centum of one two-hundred-eightieth of the part of his average final compensation not in excess of four thousand two hundred dollars for the period of membership service that would have been rendered by him subsequent to December 31, 1955 if his service continued to age sixty; and (c) if he has a prior service certificate in full force and effect an additional pension which shall be equal to ninety per centum of one-seventieth of his average final compensa-

tion multiplied by the number of years of service certified to him on his prior service certificate."

SECTION 5. Section 6-47 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 6-47. Allowance on accidental disability retirement.**

Upon retirement for accidental disability a member shall receive a retirement allowance which shall consist of: (a) an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and (b) a pension in addition to the annuity of sixty-six and two-thirds per centum of his average final compensation, except that if a member is a Class A member such pension payable subsequent to the time when the member becomes eligible for a Social Security benefit, shall be reduced by sixteen and two-thirds per centum of the part of his average final compensation not in excess of four thousand two hundred dollars per annum, except that during any period when such Social Security benefit is reduced by a workmen's compensation benefit the reduction provided hereunder shall be decreased pro-rata."

SECTION 6. Chapter 6 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new section, to be numbered 6-42.01 reading as follows:

**"Sec. 6-42.01. Adjustment of retirement allowances for Social Security benefits.** Until the first payment on account of any service retirement allowance becomes normally due, any Class A member may elect to convert the allowance otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that, with his Social Security benefit he will receive, so far as possible, approximately the same amount per year before and after the commencement of such benefit."

SECTION 7. Section 6-43 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 6-43. Minimum amount.** Each of the retired employees of the several counties and of the Territory who has been in the service and employ of any of the counties or of the Territory for a total period of not less than ten years, who is a member of the system, and who is receiving a service retirement allowance of less than \$30 per month, shall be paid from the fund created by section 6-97 an amount which, together with such service retirement allowance and his Social Security benefit shall equal the sum of \$30 per month."

SECTION 8. Section 6-83 of the Revised Laws of Hawaii 1955 is hereby amended by amending the first paragraph thereof to read as follows:

**"Sec. 6-83. Deducting employee contributions from salary.** The board shall certify to the head of each department of the Territory, and to the auditor of each county, and each such department head or auditor shall cause to be deducted from the salary of each member on each and every payroll under his jurisdiction for each and

every payroll period, the proportion of earnable compensation of each member so computed under section 6-82; **provided**, however, that any Class A member may elect at the time of becoming a Class A member to have one-half or three-quarters of such proportion applied to his annual compensation not in excess of four thousand two hundred dollars; and **further provided** that no such deduction shall be made for annuity purposes from the compensation of a member who elects not to contribute if he has attained the minimum retirement age, and has completed thirty-five years of service. In determining the amount earnable by a member in a payroll period, the board may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period and it may omit deduction from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period, and to facilitate the making of deductions it may modify the deduction required of any member by such an amount as shall not exceed one-tenth of one per centum of the annual compensation upon the basis of which such deduction is to be made."

SECTION 9. Chapter 6 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new section, to be numbered 6-83.01, reading as follows:

**"Sec. 6-83.01. Deduction in Class A members amounts.** An amount equal to the taxes under the Federal Insurance Contributions Act payable by a Class A member of the period beginning January 1, 1956 and ending on the date this subsection becomes operative shall be deducted from amounts credited to such member in the annuity savings fund. Any member may elect to deposit in said fund by similar payment an amount equal to the taxes so deducted."

SECTION 10. Section 6-22 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 6-22. Limitation of other statutes.** No other provision in any other statute which provides wholly or partly at the expense of the Territory or any county for pensions or retirement benefits for employees of the Territory or of any county, their widows or other dependents shall apply to members or beneficiaries of the system established by this part, their widows or other dependents, except such benefits as may be provided under Title II of the Social Security Act."

SECTION 11. This Act shall take effect upon its approval, but the provisions of sections 3, 4, 5, 6, 8 and 9 hereof shall not become operative until a date to be specified by the governor after he shall have certified that a majority of members who have elected Class A membership shall have voted in a referendum as required by section 218 (d) (3) of the Social Security Act to be covered under the terms of that Act.

(Approved May 25, 1957.) **H.B. 765, Act 143.**



## ACT 144

An Act Relating to the University of Hawaii, Establishing the University as a Body Corporate, and Amending Chapter 44 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 44 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto, immediately following **Section 44-1**, a new section to be numbered and to read as follows:

**"Sec. 44-1.5. University to be public corporation; general powers.** The University of Hawaii is hereby established as the territorial university and constituted a body corporate. The university, under the direction of the board of regents, shall have the following general powers:

(a) To adopt, amend, and repeal by-laws governing the conduct of its business and the performance of the powers and duties granted to or imposed upon it by law.

(b) To acquire in any lawful manner any property, real, personal, or mixed, tangible or intangible, or any interest therein; to hold, maintain, use, and operate the same; and to sell, lease, or otherwise dispose of the same at such time, in such manner, and to the extent deemed necessary or appropriate to carry out its purposes.

(c) To enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any state, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation.

(d) To determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to the university.

(e) To execute, in accordance with its by-laws, all instruments necessary or appropriate in the exercise of any of its powers.

(f) To take such actions as may be necessary or appropriate to carry out the powers conferred upon it by law."

SECTION 2. **Section 44-3** of the Revised Laws of Hawaii 1955 is hereby amended by amending the word "Territory" as it appears in the last sentence of the first paragraph thereof to read "university".

SECTION 3. All laws or parts of laws which are inconsistent with the provisions of this Act are hereby amended to conform herewith.

SECTION 4. This Act shall take effect upon its approval; **provided** that this Act shall in no way be construed so as to adversely affect outstanding contracts or obligations of the University of Hawaii.

(Approved May 25, 1957.) **H.B. 1032, Act 144.**

**ACT 145**

An Act Relating to Employment Security.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 93 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) Amend **section 93-120** by changing subdivision (f) to (g), and by adding a new subdivision to be inserted after subdivision (e) and to read:

“(f) all moneys credited to this Territory’s account in the unemployment trust fund pursuant to section 903 of the Social Security Act, as amended;”

(b) Amend section 93-122 to read:

“**Section 93-122. Withdrawals; administrative use.** (a) Withdrawals. Moneys requisitioned from the Territory’s account in the unemployment trust fund shall be used exclusively for the payment of benefits and for refunds pursuant to section 93-75 and section 93-7(f), except that moneys credited to this Territory’s account pursuant to section 903 of the Social Security Act, as amended, shall be used exclusively as provided in subsection (b) of this section. The treasurer shall from time to time, with the approval of the board in accordance with regulations prescribed by the auditor of the Territory, requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to this Territory’s account therein, as it deems necessary for the payment of such benefits and refunds for a reasonable future period. Upon receipt thereof such moneys shall be deposited in the benefit account. Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by territorial officers of moneys in their custody. All benefits and refunds shall be paid from the fund upon warrants drawn upon the treasurer by the auditor of the Territory supported by vouchers approved by the board. Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits and refunds during succeeding periods, or, in the discretion of the board, shall be redeposited with the secretary of the treasury of the United States, to the credit of this Territory’s account in the unemployment trust fund, as provided in section 93-121.

(b) Administrative use. Moneys credited to the account of this Territory in the unemployment trust fund by the secretary of the treasury of the United States pursuant to section 903 of the Social Security Act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this chapter pursuant to a specific appropriation by the legislature,

**provided** that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which: (1) specifies the purposes for which such moneys are appropriated and the amounts appropriated therefor, (2) limits the period within which such moneys may be expended to a period ending not more than two years after the date of the enactment of the appropriation law, and (3) limits the amount which may be used during a 12-month period beginning on July 1 and ending on the next June 30 to an amount which does not exceed the amount by which (i) the aggregate of the amounts credited to the account of this Territory pursuant to section 903 of the Social Security Act, as amended, during the same 12-month period and the four preceding 12-month periods exceeds (ii) the aggregate of the amounts used pursuant to this subsection and charged against the amounts credited to the account of this Territory during any of such five 12-month periods. For the purposes of this subsection, amounts used during any such 12-month period shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount used for administration during any such 12-month period may be charged against any amount credited during such a 12-month period earlier than the fourth preceding such period.

Moneys credited to the account of this Territory pursuant to section 903 of the Social Security Act, as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses for the administration of this chapter pursuant to this subsection.

Moneys requisitioned for the payment of expenses of administration pursuant to this subsection shall be deposited in the employment security administration fund, but, until expended, shall remain a part of the unemployment compensation fund. The board shall maintain a separate record of the deposit, obligation, expenditure, and return of funds so deposited. If any money so deposited is, for any reason, not to be expended for the purpose for which it was appropriated, or, if it remains unexpended at the end of the period specified by the law appropriating such moneys, it shall be withdrawn and returned to the secretary of the treasury of the United States for credit to this Territory's account in the unemployment trust fund."

(c) Amend section 93-124 to read:

**"Sec. 93-124. Employment security administration fund.** There is hereby created in the territorial treasury a special fund to be known as the employment security administration fund. All moneys which are deposited or paid into this fund shall be continuously available to the board for expenditure in accordance with the provisions of this chapter, and shall not lapse at any time or be transferred to any other fund. All moneys in this fund, except moneys received pursuant to section 93-122(b), which are received from the federal government or any agency thereof shall

be expended solely for the purposes and in the amounts found necessary by the secretary of labor for the proper and efficient administration of this chapter. The fund shall consist of all moneys appropriated by this Territory, all moneys received from the United States, or any agency thereof, including the secretary of labor, and all moneys received from any other source for such purpose, and shall also include any moneys received from any agency of the United States or any other state as compensation for services or facilities supplied to such agency, any amounts received pursuant to any surety bond or insurance policy or from other sources for losses sustained by the employment security administration fund or by reason of damage to equipment or supplies purchased from moneys in such fund, and proceeds realized from the sale or disposition of any such equipment or supplies which may no longer be necessary for the proper administration of this chapter. Notwithstanding any provision of this section, all moneys requisitioned and deposited in the employment security administration fund pursuant to section 93-122(b) shall remain part of the unemployment compensation fund and shall be used only in accordance with the conditions specified in section 93-122(b). All moneys in this fund shall be deposited and administered, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the territorial treasury, except that moneys in this fund shall not be commingled with other territorial funds, but shall be maintained in a separate account on the books of a depository bank. All moneys in this fund shall be disbursed upon warrants drawn by the auditor of the Territory supported by vouchers approved by the board. Such moneys shall be secured by the depository in which they are held to the same extent and in the same manner as required by the general depository law of the Territory, and collateral pledged shall be maintained in a separate custody account. The territorial treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the employment security administration fund provided for under this chapter. Such liability on the official bond shall be effective immediately upon the enactment of this provision. All sums recovered on such surety bond for losses sustained by the employment security administration fund shall be deposited in the fund."

(d) Amend subsection (c) of section 93-65 by changing the period at the end of the first sentence to a semicolon and adding the following phrase:

**"provided, that any amount credited to this Territory under section 903 of the Social Security Act, as amended, which has been appropriated for expenses of administration whether or not withdrawn from the trust fund shall be excluded from the fund for the purposes of this subsection."**

**SECTION 2.** This Act shall take effect on July 1, 1957.

(Approved May 25, 1957.) **H.B. 1085, Act 145.**

**ACT 146**

An Act Providing a Bonus for Pensioners and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Every pension payable under the employees' retirement system of the Territory of Hawaii or payable under or pursuant to any law of the Territory, or by any county or independent public board or commission, shall be increased by a bonus for each month for the period commencing July 1, 1957, and ending June 30, 1959, any provision in any law to the contrary notwithstanding as follows: forty-five dollars (\$45.00) per month, **provided** that if the pension as increased by said bonus does not equal one hundred twenty dollars (\$120.00) per month, the bonus shall be further increased by such sum, not in excess of ten dollars (\$10.00), as will bring the total of the pension and bonus to one hundred twenty dollars (\$120.00) per month; **provided**, further, that where the dependents of a deceased pensioner are receiving pensions by reason of his death, the total only of all amounts paid to such dependents shall be so increased, and the increase herein provided for shall be shared by them in proportion to the respective amounts of pension receivable by them exclusive of this increase.

SECTION 2. No pension payable under the employees' retirement system shall be increased by any bonus for pensioners unless the beneficiary thereof, or the person for whose service the pension is payable, has had sufficient service to qualify for the minimum service retirement allowance, and no funds appropriated in this Act or by any other Act shall be paid in violation of this provision; **provided**, however, that this provision shall not operate to increase the pension of any person who was receiving a pensioner's bonus on July 1, 1951, without having met the minimum service requirement, but such person shall continue to receive the pension he was receiving on June 30, 1955.

SECTION 3. The provisions of this Act shall not apply to any person who may retire on or after July 1, 1957, and who will receive social security benefits upon his retirement.

SECTION 4. The board of trustees of the employees' retirement system of the Territory of Hawaii is hereby authorized and directed to pay the bonus to pensioners under said system, the territorial auditor is hereby authorized and directed to pay the bonus to all territorial pensioners who are not under said system, and the appropriate officer of each county, and each independent board or commission hereby affected, is hereby authorized and directed to pay the bonus granted to pensioners whose pensions are payable by said respective counties, boards and commissions, all such payments to be made from allotments pursuant to section 5; and all such boards, commissions and officers are hereby directed to certify to the director of the bureau of the budget, promptly upon the enactment of this Act, the amounts required to meet such bonus payments to and including December 31, 1957, and to similarly certify

the amounts required every six months, as directed by the bureau of the budget.

SECTION 5. There is hereby appropriated from the general revenues of the Territory the sum of \$3,231,000 to pay the bonus provided for by sections 1 and 2 of this Act. Such appropriation shall be allotted by the director of the bureau of the budget, with the approval of the governor, to the several boards, commissions and officers required to make such payments, except where there is a specific provision for payment of the bonus from other funds, and in the case of the counties the money so allotted shall be paid into the county treasuries and held in special funds solely for such purpose.

SECTION 6. This Act shall take effect on July 1, 1957.

(Approved May 27, 1957.) H.B. 1229, Act 146.

### ACT 147

An Act Making Appropriations Out of the General Revenues for the Biennial Period Ending June 30, 1959.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That the following sums, or so much thereof as shall be sufficient to accomplish the purpose designated by the appropriations, are hereby appropriated for the biennial period beginning July 1, 1957 and ending June 30, 1959, out of moneys in the treasury received from general revenues:

#### 1. BOARD OF AGRICULTURE AND FORESTRY

		2,309,735
Division of Administration		184,237
A. Personal Services	165,104	(16)
B. Other Current Expenses	18,933	
C. Equipment	200	
Division of Animal Industry		690,185
A. Personal Services	552,730	(55)
B. Other Current Expenses	95,942	
C. Equipment	3,813	
G. Rights & Obligations	28,000	
M. Motor Vehicles	9,700	

The above appropriation includes funds for administering the brucellosis program in conjunction with the operation of the anaplasmosis program.

Division of Entomology and Marketing		545,804
A. Personal Services	466,932	(49)
B. Other Current Expenses	58,334	

C. Equipment	3,788		
M. Motor Vehicles	16,750		
Division of Fish and Game		309,249	
A. Personal Services	248,414	(29.5)	
B. Other Current Expenses	44,920		
C. Equipment	4,940		
M. Motor Vehicles	10,975		
Included in this appropriation is \$80,000 (8½ positions) to match new federal funds on a 3 to 1 basis.			
Division of Forestry		492,230	
A. Personal Services	468,418	(62)	
B. Other Current Expenses	23,550		
C. Equipment	262		
Division of Territorial Parks		88,030	
A. Personal Services	83,910	(10)	
B. Other Current Expenses	4,120		
2. ATTORNEY GENERAL			370,378
Attorney General's Office		352,414	
A. Personal Services	329,486	(25)	
B. Other Current Expenses	18,928		
C. Equipment	4,000		
Office of the High Sheriff		8,400	
A. Personal Services	8,400	(1)	
Bureau of Crime Statistics		9,564	
A. Personal Services	8,064	(1)	
B. Other Current Expenses	1,000		
C. Equipment	500		
3. AUDITING DEPARTMENT			479,297
Auditor's Office Proper		350,945	
A. Personal Services	318,898	(28)	
B. Other Current Expenses	30,725		
C. Equipment	1,322		
Electrical Accounting Machines		128,352	
A. Personal Services	80,265	(11)	
B. Other Current Expenses	47,793		
C. Equipment	294		
4. BOXING COMMISSION			29,418
A. Personal Services	26,582	(2)	
B. Other Current Expenses	2,836		
5. BUREAU OF THE BUDGET			839,377
Bureau of the Budget Proper		304,377	

A. Personal Services	282,036	(23)	
B. Other Current Expenses	19,476		
C. Equipment	2,865		
Supplies Revolving Fund		25,000	
B. Other Current Expenses	25,000		
Insurance Management		510,000	
B. Other Current Expenses	10,000		
F. Fixed Charges	500,000		
<b>6. TERRITORIAL COMMISSION ON CHILDREN AND YOUTH</b>			16,566
A. Personal Services	14,774	(1)	
B. Other Current Expenses	1,792		
<b>7. CIVIL DEFENSE AGENCY</b>			167,751
Administration		72,486	
A. Personal Services	41,286	(4)	
B. Other Current Expenses	30,900		
C. Equipment	300		
Health Services		67,605	
A. Personal Services	8,976	(1)	
B. Other Current Expenses	25,000		
C. Equipment	200		
M. Motor Vehicle	400		
B. Territorial and Federal Civilian Defense Matching Fund	66,058		
Total Requirements	100,634		
Less Federal funds to be matched by territorial funds estimated at	33,029		
Net Appropriation	67,605		
Special programs		27,660	
C. Fire pumpers	4,000		
Territorial and Federal Civil Defense Matching Fund	47,320		
Total Requirements	51,320		
Less Federal funds to be matched by Territorial funds estimated at	23,660		
Net Appropriation	27,660		

The above appropriations for motor vehicle and fire pumpers are provided for purchase from the Territorial surplus property program.



8.	DEPARTMENT OF CIVIL SERVICE		355,398
	A. Personal Services	315,853	(30)
	B. Other Current Expenses	37,760	
	C. Equipment	1,785	
	The director shall provide secretarial help from his departmental staff to the Civil Service Commission as needed.		
9.	ECONOMIC PLANNING AND COORDINATION AUTHORITY		368,783
	A. Personal Services	79,054	(8.5)
	B. Other Current Expenses	79,004	
	C. Equipment	2,725	
	Grants and Contracts	208,000	
10.	EMPLOYEES' RETIREMENT SYSTEM		6,788,711
	A. Personal Services	216,870	(25)
	B. Other Current Expenses	33,910	
	C. Equipment	4,022	
	F. Fixed Charges	6,533,909	
11.	EXECUTIVE DEPARTMENT		342,500
	Governor's Office and Washington Place	192,500	
	This appropriation includes necessary expenses of the International Cooperation Center as determined by the Governor. The total appropriation shall be expended at the discretion of the Governor.		
	Governor's Contingent Fund	150,000	
	Expenditures from this fund may be made with the approval of the Governor for urgent needs for which no specific appropriation or an insufficient appropriation is made herein or otherwise; a detailed account of all of which expenditures shall be submitted to the next legislature.		
12.	HAWAII HISTORICAL SITES COMMISSION		500
	B. Other Current Expenses	500	
13.	HAWAII SOIL CONSERVATION COMMITTEE		2,950
	B. Other Current Expenses	2,950	

14. HAWAII STATEHOOD COMMISSION		95,000
Washington Office	68,889	
	<u>10,000</u>	Delete
	58,889	SWK approved
A. Personal Services	20,000	(1)
B. Other Current Expenses	48,589	
This appropriation includes		
\$10,000 to be expended by the delegate to Congress from the Territory of Hawaii for expenses incurred by the delegate in furthering the cause of Statehood for Hawaii.		\$10,000 appropriated to be expended by the Delegate to Congress from the Territory of Hawaii deleted.
C. Equipment	300	
Honolulu Office	26,111	
A. Personal Services	18,911	(2)
B. Other Current Expenses	7,000	
C. Equipment	200	
15. HAWAIIAN HOMES COMMISSION		337,845
A. Personal Services	294,925	(35.3)
B. Other Current Expenses	39,240	
C. Equipment	1,180	
M. Motor Vehicles	2,500	
This authorization constitutes the approval by the legislature of the Hawaiian Homes Commission budget for salaries and other administration expenses required by Section 213 (f), Hawaiian Homes Commission Act of 1920, as amended. Of this appropriation, \$7,000 shall be expended for personal services, upkeep and maintenance of the Hoolehua Gymnasium on the island of Molokai. This appropriation is financed from receipts derived from any leasing of the available lands, defined in Section 204, estimated at \$547,752.		
16. DEPARTMENT OF HEALTH		6,710,229
General Administration	400,337	
A. Personal Services	337,014	(39)
B. Other Current Expenses	58,048	
C. Equipment	3,275	
M. Motor Vehicles	2,000	

## BIENNIAL APPROPRIATIONS

ACT 147

Division of Dental Health		33,422
A. Personal Services	28,578	(2)
B. Other Current Expenses	4,627	
C. Equipment	217	
Division of Hospitals and Medical Care		232,362
A. Personal Services	206,208	(5)
B. Other Current Expenses	25,954	
C. Equipment	200	
Division of Local Health Services		1,172,463
A. Personal Services	1,070,463	(126)
B. Other Current Expenses	81,241	
C. Equipment	2,759	
M. Motor Vehicles	18,000	
Division of Mental Health		340,143
A. Personal Services	297,878	(25)
B. Other Current Expenses	38,065	
C. Equipment	4,200	
Division of Preventive Medicine		992,387
A. Personal Services	702,538	(71)
B. Other Current Expenses	237,241	
C. Equipment	17,608	
M. Motor Vehicles	10,000	
Polio Vaccine Program	25,000	
Division of Sanitation		1,646,131
A. Personal Services	1,479,310	(181)
B. Other Current Expenses	113,802	
C. Equipment	7,019	
M. Motor Vehicles	18,000	
Rodent Control — Kauai	28,000	
Division of Hansen's Disease Administration	166,497	300,334
A. Personal Services	144,006	(13)
B. Other Current Expenses	21,878	
C. Equipment	613	
Hale Mohalu		714,233
A. Personal Services—Regular	324,943	(45)
A. Personal Services—Patients	80,000	
B. Other Current Expenses	292,100	
C. Equipment	8,150	
F. Fixed Charges	9,040	
Kalaupapa Settlement		1,419,604
A. Personal Services—Regular	480,394	(67)
A. Personal Services—Patients	192,000	
B. Other Current Expenses	687,804	

C. Equipment	11,182	
F. Fixed Charges	<u>48,224</u>	
Total Requirements	2,300,334	(125)

Less such federal funds as may be made available for Hansen's Disease under PL 411, 84th Congress, 2nd Session, estimated at

2,000,000

Net Appropriation

300,334

**Provided**, that in the event an amount less than \$2,000,000 is provided by Congress for Hansen's Disease, then the difference between \$2,000,000 and the amount of the federal funds provided is hereby appropriated; and **provided further** that, in the event an amount greater than \$2,000,000 is provided, then this appropriation shall be reduced to the extent that the actual realization shall exceed the estimated sum of \$2,000,000 for the biennium 1957-1959.

Medical Care of Indigents and Medically Indigent

F. Fixed Charges

2,192,650

1,592,650

Less such federal public assistance funds as may be made available, estimated at

600,000

Net Appropriation

1,592,650

**Provided**, that in the event an amount less than \$600,000 is realized from federal funds, then the difference between \$600,000 and the amount of federal funds provided is hereby appropriated; and **provided further** that, in the event an amount greater than \$600,000 is provided, then this appropriation shall be reduced to the extent that the actual realization shall

exceed the estimated sum of  
\$600,000 for the biennium  
1957-1959.

17. DEPARTMENT OF INSTITUTIONS		10,279,917
Office of the Director		191,231
A. Personal Services	179,331	(16)
B. Other Current Expenses	10,247	
C. Equipment	1,653	
Territorial Hospital		4,333,378
A. Personal Services	3,108,734	(398)
B. Other Current Expenses	1,134,289	
B1. Repairs to Buildings	49,000	
B3. Transportation of Patients	2,000	
C. Equipment	39,355	
Waimano Home		2,446,886
A. Personal Services	1,675,733	(237)
B. Other Current Expenses	732,853	
C. Equipment	30,500	
M. Motor Vehicle	7,800	
Hawaii Prison System		2,131,086
A. Personal Services	1,302,073	(146)
B. Other Current Expenses	769,213	
C. Equipment	18,200	
M. Motor Vehicles	5,000	
Prisoner's Compensation	30,600	
Transportation of Impecunious Persons	6,000	
Division of Training Schools		883,583
A. Personal Services	657,051	(83)
B. Other Current Expenses	225,174	
C. Equipment	1,358	
Board of Paroles and Pardons		155,260
A. Personal Services	142,320	(15)
B. Other Current Expenses	12,390	
C. Equipment	550	
Division of Parole and Homeplacement		138,493
A. Personal Services	120,119	(13)
B. Other Current Expenses	12,924	
B1. Homeplacements	5,150	
C. Equipment	300	
18. INSTITUTIONS, QUASI-PUBLIC		7,223,375
Kula Sanatorium—		
Tuberculosis Division		998,459
A. Personal Services	756,373	(131)

B. Other Current Expenses	278,966
C. Equipment	15,000
F. Fixed Charges	34,120
Total Requirements	1,084,459

Less such receipts as may be made available estimated at	86,000
Net Appropriation	998,459

The above appropriation for other current expenses provides mileage allowances for staff doctors and superintendents.

Kula Sanatorium—General		23,896
Hospital Division		
A. Personal Services	59,437	(11)
B. Other Current Expenses	14,459	
Total Requirements	73,896	
Less such receipts as may be made available estimated at	50,000	
Net Appropriation	23,896	

To supplement the estimated receipts to provide for the operation and maintenance of the hospital for the biennium 1957-1959; **provided**, however, that this appropriation shall be reduced to the extent that the actual receipts shall exceed the estimated sum of \$50,000 for the biennium 1957-1959.

Leahi Hospital			3,422,804
A. Personal Services	2,380,100	(389.5)	
A. Salary Increase Equivalent to Act 2, Special Session Laws 1956	200,000		
B. Other Current Expenses	831,137		
C. Equipment	10,000		
E. Structures and Improvements	25,000		
Total Requirements	3,446,237		
Less such receipts as may be made available, estimated at	23,433		
Net Appropriation	3,422,804		

To supplement the estimated receipts to provide for the oper-

ation and maintenance of the hospital for the biennium 1957-1959; **provided**, however, that this appropriation shall be reduced to the extent that the actual receipts shall exceed the estimated sum of \$23,433 for the biennium 1957-1959.

The above appropriation for salary increase is to provide for salary adjustments to individual employees on a comparable basis to Territorial and County employees resulting from the provisions of Act 2, Special Session Laws of Hawaii 1956 effective July 1, 1957 and any excess of the appropriation shall lapse into the general fund of the Territory. The Budget Director shall certify as to whether the salary increase is on a comparable basis before any payments are made to the employees.

Molokai Community Hospital		103,100
A. Personal Services	201,872	(32)
B. Other Current Expenses	93,499	
C. Equipment	780	
Total Requirements	<u>296,151</u>	
Less such receipts as may be made available, estimated at	193,051	
Net Appropriation	<u>103,100</u>	

To supplement the estimated receipts to provide for the operation and maintenance of the hospital for the biennium 1957-1959; **provided**, however, that this appropriation shall be reduced to the extent that the actual receipts shall exceed the estimated sum of \$193,051 for the biennium 1957-1959.

Puumaile and Hilo Memorial Hospital— Tuberculosis Division	1,189,939
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A. Personal Services	1,001,871	(151.3)
B. Other Current Expenses	252,199	
C. Equipment	5,000	
Total Requirements	1,259,070	

Less such receipts as may be made available, estimated at	69,131	
Net Appropriation	1,189,939	

To supplement the estimated receipts to provide for the operations and maintenance of the division for the biennium 1957-1959; **provided**, however, that this appropriation shall be reduced to the extent that the actual receipts shall exceed the estimated sum of \$69,131 for the biennium 1957-1959.

Samuel Mahelona Memorial Hospital		765,697
A. Personal Services	580,152	(93)
B. Other Current Expenses	215,545	
C. Equipment	7,500	
Total Requirements	803,197	

Less such receipts as may be made available, estimated at	37,500	
Net Appropriation	765,697	

To supplement the estimated receipts to provide for the operation and maintenance of the hospital for the biennium 1957-1959; **provided**, however, that this appropriation shall be reduced to the extent that the actual receipts shall exceed the estimated sum of \$37,500 for the biennium 1957-1959.

Lunalilo Home		80,000
F. Fixed Charges	80,000	
Ward Bed Subsidy		639,480

Oahu:		
County Hospital:		
Maluhia Hospital	96,725	



Private Hospitals:	
Kapiolani Maternity Hospital	19,710
Kauikeolani Children's Hospital	40,515
Kuakini Hospital	23,725
St. Francis Hospital	54,385
Queen's Hospital	92,710
Wahiawa General Hospital	28,835
Southshore Hospital	14,235
Kahuku Hospital	10,950
Maunalani Hospital	14,600
Maui:	
County Hospitals:	
Central Maui Memorial Hospital	45,990
Hana Hospital	7,665
Private Hospitals:	
Lanai Hospital	7,300
Hawaii:	
Private Hospitals:	
Pahala Hospital	12,410
County Hospitals:	
Puumaile & Hilo Memorial Hospital—General	81,760
Honokaa Hospital	14,600
Kohala Hospital	16,425
Kona Hospital	16,425
Kauai:	
Private Hospitals:	
Wilcox Memorial Hospital	28,835
Kauai Veteran's Memorial Hospital	11,680
	<hr/> 639,480

The above appropriation for private and county hospitals shall be paid in quarterly installments at the rate of \$.50 per ward bed per day, whether occupied or not, but not exceeding said appropriations for the biennium; **provided**, however, that said installments shall not be paid unless and until (1) the auditor finds that the recipient has installed and is maintaining a uniform

accounting system in conformity with accepted standards of the American Hospital Association; (2) the recipient has filed with the auditor a statement of receipts and disbursements, in accordance with the system prescribed for the quarter for which the payment is made; (3) the president of the Board of Health defines, determines, certifies, and approves the term "ward bed" and the number thereof; and (4) all persons licensed to practice medicine and surgery in the Territory of Hawaii pursuant to chapter 64, Revised Laws of Hawaii 1945, as amended, are allowed the use of the facilities of the recipient hospitals without discrimination except for misconduct or abuse of such facilities.

19. JUDICIAL BRANCH		2,573,975
Supreme Court		152,314
A. Personal Services	107,698	(11)
B. Other Current Expenses	27,825	
C. Equipment	16,791	
District Court of Kalawao		4,560
A. Personal Services	4,560	(1)
Land Court		37,619
A. Personal Services	27,648	(2)
B. Other Current Expenses	9,661	
C. Equipment	310	
Tax Appeal Court		6,290
B. Other Current Expenses	6,290	
First Circuit Court		898,302
First Circuit Court Proper	762,652	
A. Personal Services	557,927	(57)
B. Other Personal Services	133,100	
B. Other Current Expenses	54,400	
C. Equipment	17,225	
Adult Probation		135,650
A. Personal Services	122,912	(14)
B. Other Current Expenses	12,038	
C. Equipment	700	

## BIENNIAL APPROPRIATIONS

ACT 147

Juvenile Court		747,515	
Juvenile Court Proper	539,976		
A. Personal Services	481,174	(53)	
B. Other Current Expenses	56,802		
C. Equipment	2,000		
Detention Home		207,539	
A. Personal Services	166,458	(22)	
B. Other Current Expenses	39,608		
C. Equipment	1,473		
Second Circuit Court		269,636	
A. Personal Services	186,356	(21)	
B. Other Current Expenses	54,565		
C. Equipment	3,715		
E. Structure and Improvement— Maui Detention Home	25,000		
Third Circuit Court		293,814	
A. Personal Services	208,684	(23)	
B. Other Current Expenses	79,393		
C. Equipment	5,737		
Fifth Circuit Court		163,925	
A. Personal Services	131,172	(13)	
B. Other Current Expenses	27,743		
C. Equipment	2,730		
M. Motor Vehicles	2,280		
20. DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS			658,545
Department of Labor and Industrial Relations Proper		388,483	
A. Personal Services	363,450	(34)	
B. Other Current Expenses	23,612		
C. Equipment	1,421		
Workmen's Compensation		245,772	
A. Personal Services	217,478	(21)	
B. Other Current Expenses	26,288		
C. Equipment	2,006		
Hawaii Employment Relations Board		24,290	(2)
<b>Provided</b> that none of the above amount shall be expended for an examiner of the board un- less such person shall have had at least 5 years' experi- ence in the field of labor law.			
21. LIBRARIES			1,525,659
Library of Hawaii		953,488	

A. Personal Services	723,712	(99)	
B. Other Current Expenses	115,800		
C. Equipment	101,976		
M. Motor Vehicles	12,000		
Hawaii County Library		192,676	
A. Personal Services	150,720	(20.5)	
B. Other Current Expenses	16,922		
C. Equipment	25,034		
Maui County Free Library		197,430	
A. Personal Services	144,422	(19.8)	
B. Other Current Expenses	13,608		
C. Equipment	37,000		
M. Motor Vehicles	2,400		
Kauai Public Library Association, Ltd.		182,065	
A. Personal Services	154,312	(21.1)	
B. Other Current Expenses	15,100		
C. Equipment	12,653		
22. MILITARY DEPARTMENTS			883,477
A. Personal Services	773,183	(96.5)	
B. Other Current Expenses	183,658		
B1. Repairs and Maintenance	83,967		
C. Equipment	7,569		
M. Motor Vehicle	2,100		
Total Requirements	1,050,477		
Less federal service contract funds, estimated at	167,000		
Net Appropriation	883,477		

In the event that the Hawaii National Guard and the Hawaii Air National Guard shall be called or ordered into the service of the United States, the foregoing appropriation or any part thereof remaining unexpended shall be available for expenditure for the Hawaii Territorial Guard. In the event that only a portion of the Hawaii National Guard or the Hawaii Air National Guard should be called or ordered into the service of the United States, the adjutant general with the approval of

the director of the bureau of  
of the budget shall allocate  
the foregoing appropriation or  
any part thereof remaining  
unexpended between the Ha-  
wail Territorial Guard and the  
Hawaii National Guard.

23. PUBLIC ARCHIVES			104,500
A. Personal Services	96,778	(13)	
B. Other Current Expenses	6,300		
C. Equipment	1,422		
24. DEPARTMENT OF PUBLIC INSTRUCTION			49,819,249
General Administration		1,050,953	
A. Personal Services	929,435	(86)	
B. Other Current Expenses	107,407		
C. Equipment	14,111		
General Education		49,281,172	
A. Personal Services	46,341,137	(5131-5285)	
B. Other Current Expenses	1,181,172		
C. Equipment	1,758,863		

The above appropriations include \$767,104 additional for the following: kindergarten classroom supplies and equipment, grades 1-12 classroom supplies and equipment including textbooks, agriculture supplies and equipment, home economics supplies and equipment, remedial supplies and equipment, cafeteria supplies and equipment, supplementary lunch service. Also include additional \$58,722 for non-classroom supplies and equipment, including library and reference books; and 4 vocational guidance career planning workers.

Special Education			3,512,475
A. Personal Services	3,086,132	(268-278)	
B. Other Current Expenses	303,740		
C. Equipment	122,603		

The above appropriations provide  
for 4 teachers for gifted child-

ren off-ratio, Director of gifted children, 21 teachers for handicapped children off-ratio, Home Instruction for handicapped children, and \$50,000 for free classes in citizenship and basic English in adult community schools.

Total Requirements	53,844,600	(5485-5649)
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Less such federal funds as may be made available for vocational education, estimated at	345,000	(10)
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Less such federal funds as may be made available for Central Veterans School under PL 550, estimated at	38,760	
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Less such federal funds as may be made available under PL 874, estimated at	3,378,199	(373)
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Less such special funds as may be made available for adult education, estimated at	213,392	(10)
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Less such special funds as may be made available for Lahaina-luna Boarding School, estimated at	50,000	
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Net Appropriation	49,819,249	
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**Provided** that in the event an amount less than \$3,378,199 is provided by congress under PL 874, then the difference between \$3,378,199 and the amount of the federal funds provided is hereby appropriated; **provided, further** that in the event an amount greater than \$3,378,199 is provided then this appropriation shall be reduced to the extent that the actual realization shall exceed the estimated sum of \$3,378,199 for the biennium 1957-1959.

The appropriation for this department is based upon a

school by school pupil-teacher ratio of 32 pupils per teacher. Further, the overhead ratios are based on a pupil-staff ratio of 195 to 1. **Provided** however, that there shall be no less than three overhead positions in any high school; and **provided further** that the department may reallocate the total staff positions authorized the department, based on a formula of 195 to 1, between the elementary and secondary schools within each school district, when such reallocation will enable the establishment of a more effective counselling and other services in the schools.

25. DEPARTMENT OF PUBLIC LANDS		925,818
Office of the Commissioner		295,050
A. Personal Services	252,156	(27)
B. Other Current Expenses	40,469	
C. Equipment	2,425	
Bureau of Conveyances		407,835
A. Personal Services	361,132	(42)
B. Other Current Expenses	44,503	
C. Equipment	2,200	
Division of Hydrography		222,933
A. Personal Services	46,235	(5)
B. Other Current Expenses	9,980	
C. Equipment	200	
G. Rights and Obligations	166,518	
26. DEPARTMENT OF PUBLIC WELFARE		8,465,011
Administration		1,417,156
A. Personal Services	1,315,046	(235)
B. Other Current Expenses	99,910	
C. Equipment	2,200	

The above appropriations include any stenographic assistance and office space that is necessary in the Liliuokalani Building for the Territorial Commission on Children and Youth.

An additional 15 temporary  
"floater positions" may be  
used to enable the reduction  
of the "hard core" cases.

Assistance Program		7,047,855	
F. General Assistance	2,060,544		
F. Aid to the Disabled	714,908		
F. Old Age Assistance	504,647		
F. Aid to Dependent Children	2,967,401		
F. Aid to the Blind	54,939		
F. Child Welfare Services	745,416		
27. DEPARTMENT OF PUBLIC WORKS			1,553,269
Office of the Superintendent		117,263	
A. Personal Services	112,963	(8)	
B. Other Current Expenses	4,300		
Maintenance, Repairs, Additions and Improvements to Buildings, Grounds and Government Property		1,432,526	
A. Personal Services	773,261	(118.3)	
B. Other Current Expenses	422,130		
B1. Repairs to Buildings	233,530		
C. Equipment	3,605		
Maintenance of Government Cemeteries		3,480	
A. Personal Services	3,480	(3)	
28. SECRETARY OF HAWAII			236,800
Secretary's Office		72,302	
A. Personal Services	69,476	(8)	
B. Other Current Expenses	2,826		
Expenses of Election			134,498
A. Personal Services	74,960		
B. Other Current Expenses	40,608		
B1. Special Election	6,450		
C. Equipment	12,480		
Publication of Session Laws of Hawaii and Cumulative Supplement		30,000	
29. BUREAU OF SIGHT CONSERVATION AND WORK WITH THE BLIND			338,563
Bureau of Sight Conservation Proper		319,700	
A. Personal Services	268,166	(37.4)	
B. Other Current Expenses	19,518		
C. Equipment	750		
F. Fixed Charges	86,992		
Total Requirements	375,426	(37.4)	



Less such federal funds as may be made available for Vocational Rehabilitation estimated at	55,726	(3)	
Net Appropriation	319,700		
Territorial Workshop for the Blind			18,863
A. Personal Services	16,323	(2)	
M. Motor Vehicle	2,540		
30. COMMISSION ON SUBVERSIVE ACTIVITIES			35,390
A. Personal Services	32,504	(3)	
B. Other Current Expenses	2,060		
C. Equipment	826		
31. OFFICE OF SURVEYOR			377,152
A. Personal Services	359,323	(31)	
B. Other Current Expenses	17,252		
C. Equipment	577		
32. DEPARTMENT OF THE TAX COMMISSIONER			2,846,131
Administration			267,645
A. Personal Services	240,374	(22)	
B. Other Current Expenses	25,670		
C. Equipment	1,601		
Real Property Tax			553,904
A. Personal Services	518,498	(53)	
B. Other Current Expenses	26,521		
C. Equipment	4,185		
M. Motor Vehicles	4,700		
Income and Miscellaneous Taxes			787,791
A. Personal Services	732,117	(84)	
B. Other Current Expenses	50,504		
C. Equipment	5,170		
Examiners and Auditors			416,663
A. Personal Services	402,195	(37)	
B. Other Current Expenses	11,513		
C. Equipment	690		
M. Motor Vehicles	2,265		
Collection			483,082
A. Personal Services	392,473	(47)	
B. Other Current Expenses	83,136		
C. Equipment	5,023		
M. Motor Vehicles	2,450		
Delinquent Taxes			164,694
A. Personal Services	158,449	(18)	

B. Other Current Expenses	4,300	
C. Equipment	1,945	
Taxation Maps		166,532
A. Personal Services	160,766	(19)
B. Other Current Expenses	4,310	
C. Equipment	1,456	
Boards of Review		5,820
B. Other Current Expenses	5,820	
<b>Provided</b> that this appropriation shall be increased by an additional amount of \$295,000 in the event S. B. 2 is enacted.		
<b>33. TREASURY DEPARTMENT</b>		<b>13,238,312</b>
Treasurer's Office		148,060
A. Personal Services	137,476	(12)
B. Other Current Expenses	10,084	
C. Equipment	500	
Deputy Bank Examiner		176,450
A. Personal Services	162,490	(14)
B. Other Current Expenses	13,910	
C. Equipment	50	
Fire Marshal		47,713
A. Personal Services	39,990	(3)
B. Other Current Expenses	7,519	
C. Equipment	204	
Insurance Bureau		134,397
A. Personal Services	123,962	(12)
B. Other Current Expenses	10,435	
Public Debt Service		41,077
B. Other Current Expenses	41,077	
Bonded Debt		12,690,615
Interest on Bonded Debt	5,511,615	
Redemption on Serial Bonds	7,179,000	
<b>34 UNIVERSITY OF HAWAII</b>		<b>7,940,552</b>
Administration and General		808,278
A. Personal Services	869,705	(87.29)
B. Other Current Expenses	189,301	
C. Equipment	8,239	
Total Requirements	1,067,245	(87.29)
Less estimated special funds	258,967	(1.00)
Net Appropriation	808,278	(86.29)

## BIENNIAL APPROPRIATIONS

ACT 147

Resident Instruction and Departmental Research		2,692,922
A. Personal Services	4,403,614	(376.03)
B. Other Current Expenses	223,020	
C. Equipment	73,762	
Total Requirements	4,700,396	(376.03)
Less estimated special funds	2,007,474	(138.49)
Net Appropriation	2,692,922	(237.54)
Hilo Branch		132,517
A. Personal Services	221,520	(21.75)
B. Other Current Expenses	38,575	
C. Equipment	6,390	
Total Requirements	266,485	(21.75)
Less estimated special funds	133,968	(5.75)
Net Appropriation	132,517	(16)
General Studies Division		87,775
A. Personal Services	313,534	(12)
B. Other Current Expenses	33,700	
C. Equipment	541	
Total Requirements	347,775	(12)
Less estimated special funds	260,000	(5)
Net Appropriation	87,775	(7)
Organized Activities Related to Educational Departments		500,212
A. Personal Services	559,555	(57.06)
B. Other Current Expenses	68,077	
C. Equipment	17,880	
Total Requirements	645,512	(57.06)
Less estimated special funds	145,300	(4)
Net Appropriation	500,212	(53.06)
Hawaii Agricultural Experiment Station		1,170,201
A. Personal Services	1,414,781	(148.84)
B. Other Current Expenses	327,837	
C. Equipment	42,387	
E. Structures and Improvements	7,000	
Total Requirements	1,792,005	(148.84)
Less estimated special funds	621,804	(44.02)
Net Appropriation	1,170,201	(104.82)

Agricultural Extension Service		953,287
A. Personal Services	1,247,237	(115.18)
B. Other Current Expenses	195,907	
C. Equipment	3,615	
Total Requirements	1,446,759	(115.18)
Less estimated special funds	493,472	(45.14)
Net Appropriation	953,287	(70.04)

Miscellaneous Organized Research		132,045
A. Personal Services	243,959	(6.50)
B. Other Current Expenses	95,546	
C. Equipment	42,540	
Total Requirements	382,045	(6.50)
Less estimated special funds	250,000	
Net Appropriation	132,045	(6.50)

**Provided** that in the event the measure known as Senate Bill No. 2 of the Twenty-Ninth Legislature of the Territory of Hawaii, regular session of 1957, entitled: "An Act Relating to Taxation . . .", is not approved by the governor of Hawaii and enacted into law as of July 1, 1957, then this sub-item, 'Miscellaneous Organized Research', shall be reduced by \$16,308, by deducting the same from the amount specified for Personal Services.

Various Extension and Public Services		237,693
A. Personal Services	243,433	(23.70)
B. Other Current Expenses	219,297	
C. Equipment	2,692	
M. Motor Vehicles	3,400	
Total Requirements	468,822	(23.70)
Less estimated special funds	231,129	(1)
Net Appropriation	237,693	(22.70)

Library		321,080
A. Personal Services	323,975	(36.5)
B. Other Current Expenses	46,300	
C. Equipment	137,920	
Total Requirements	508,195	(36.5)

Less estimated special funds	187,115	
Net Appropriation	321,080	(36.5)
Operation and Maintenance of Physical Plant		904,542
A. Personal Services	659,441	(107)
B. Other Current Expenses	390,600	
C. Equipment	22,626	
Total Requirements	1,072,667	(107)
Less estimated special funds	168,125	(3)
Net Appropriation	904,542	(104)

The amount of the appropriation necessary to match allotments made by the federal government for extension work and agricultural experiment station operations shall be payable to the University of Hawaii in total, by single warrant, or by several warrants, representing periodical allotments. **Provided,** however, that disbursements matching federal allotments may be regularly audited by the federal auditor and shall be subject to the same limitations as respects the character of expenditures of the federal funds which it offsets.

Any other law to the contrary notwithstanding, no portion of the funds appropriated by this Act for the University of Hawaii, or collected or received by the University from its students or from the United States, or of any other funds under the control of its board of regents, shall be expendable for the reimbursement of the Territory for the amount payable by the Territory to cover the liability of the Territory to the various funds of the employees' retirement system on account of the em-

ployees of the University, nor shall any law providing for such reimbursement be deemed applicable to the University, **provided** that this exemption shall not apply to Auxiliary Enterprise funds and other funds which have not been netted in deriving the net appropriation of the University.

35. COUNCIL OF VETERANS AFFAIRS		87,079
A. Personal Services	74,708	(5)
B. Other Current Expenses	11,871	
C. Equipment	500	

**Provided** that an office shall be maintained, on a full-time basis, on each of the islands of Oahu, Hawaii, Maui and Kauai.

36. DIVISION OF VOCATIONAL REHABILITATION		178,992
A. Personal Services	160,020	
B. Other Current Expenses	369,206	
C. Equipment	1,500	
Total Requirements	<u>530,726</u>	
Less such federal funds as may be made available under PL 565, 83rd Congress, 2nd Session, estimated at	311,000	
Less Old Age and Survivors Insurance Grants	20,680	
Less Donations and Contributions	20,054	
Net Appropriation	<u>178,992</u>	(18)

To supplement estimated federal funds and other receipts for the programs of the division for the biennium 1957-1959.

37. HAWAII VISITORS BUREAU	1,000,000
B. Other Current Expenses	1,000,000
This appropriation shall be subject to the following terms and conditions:	
(a) The Hawaii Visitors Bureau shall include on its executive	

board or committee the assistant director of territorial planning as provided for in Senate Bill No. 779 of the 29th Legislature Regular Session of 1957, and five other members appointed by the governor, each to serve for a term of one year and until his successor is appointed. One member shall be appointed to represent the Territory at large, the others to represent each of the counties of Hawaii, Maui, Kauai and the City and County of Honolulu, upon nomination by the board of supervisors of the respective political subdivision in conjunction with the principal civic and commercial organizations thereof.

- (b) This appropriation shall become available from time to time, upon warrants issued by the auditor of the Territory, in amounts equal to the private contributions then received by the bureau in cash and deposited to its credit in a bank. The moneys thus made available, hereinafter referred to as "matching funds", shall be expendable only as provided in subparagraphs (c), (d), (e), (f), (g) and (h).
- (c) Not less than 20 per cent of all matching funds shall be spent for advertising and promotional work for the benefit of the counties of Hawaii, Maui, and Kauai. Of this amount not less than \$40,000 shall be spent within the county of Hawaii for advertising and promotional work for the benefit of said county and not less than \$17,000 within the county of Maui for the benefit of said county and not less than \$15,000 within the county of Kauai for the benefit of said county. These promotional programs may include any and all of the activities now engaged in by the Hawaii Visitors Bureau and any other activities that are relative to tourist promotion and matching funds shall be available for any and all expenses involved in such promotional programs.
- (d) Not less than \$175,000 of all matching funds remaining after allowance for the amounts to be spent under subparagraph (c) above shall be spent for promotional work in media other than paid advertisements and purchased radio and television time. This promotion may include (1) the production and distribution of motion pictures for television or other exhibition, (2) the production and distribution of posters, brochures, and other informational matter, or of photographs, news items, or articles for publication in suitable newspapers or periodicals, (3) the sponsoring of lecture or entertainment tours designed to publicize the advantages of the Territory as a tourist area, and (4) carrying on necessary greeting and entertaining functions. This list shall not be deemed exclusive.
- (e) Not less than \$30,000 of all matching funds remaining after allowance for the amounts to be spent under subparagraphs (c) and (d) above shall be spent for Aloha Week, such sums

to be apportioned among the several counties, including the city and county of Honolulu, as follows:

City and county of Honolulu	\$24,000
County of Hawaii	2,400
County of Maui	2,400
County of Kauai	1,200
	<hr/> \$30,000

- (f) Not less than \$200,000 of all matching funds remaining after allowance for amounts to be spent under subparagraphs (c), (d) and (e) above shall be spent for the developing and for the promotion of convention and group movement business of the tourist industry.
- (g) Except as to the amounts expendable in the manner provided in subparagraphs (c), (d), (e) and (f) above, all matching funds shall be expended in promoting the Territory of Hawaii as a tourist area through paid advertising, radio and television on the mainland United States and in the Dominion of Canada and, on a matching basis with contributions made by persons or organizations doing business therein, in any foreign country other than Canada. All advertisements in newspapers or periodicals shall give the address of the Hawaii Visitors Bureau and contain the notation that the reader may obtain further information by writing thereto. No contract for advertising shall be entered into with any agency or concern until interested agencies or concerns have been given a chance to make a presentation on how and when they would expend the funds available, and until such contract shall have been approved by the Governor. The Governor shall satisfy himself, prior to approval, that the contract is the most advantageous available for the promotion of the tourist industry. If, in the determination of the Governor, tourist travel from the mainland United States to the Territory shall have been seriously curtailed as a result of war or otherwise, the executive board or committee of the bureau, within thirty days after receipt of notice of such determination, shall abandon its program of mainland and foreign advertising, displays and broadcasts, except for such as it may be then firmly committed and shall submit to the Governor a detailed plan of its proposed activities on a reduced basis for the period of such curtailment and, during such period, matching funds shall be expendable only for such purposes and in such amounts as the Governor may approve, and any unneeded matching funds at the end of the biennium shall revert to the Territory and be paid back to the general fund.
- (h) This item, "37. Hawaii Visitors Bureau," and the appropriations made in and by the same, shall be valid and effective only in the event, and upon the express condition, that there



is approved by the governor and enacted into law, as of July 1, 1957, the measure known and identified as Senate Bill No. 779 of the Twenty-ninth Legislature of the Territory of Hawaii, regular session of 1957, entitled: "An Act Relating to a Coordination Program for Improving the Public Facilities and Economic Potential of the Territory . . .".

## TOTAL OF OPERATING BUDGET

\$129,506,204

SECTION 2. (a) Within sixty days after this Act takes effect, the head of each department, with the approval of the director of the bureau of the budget, shall make the initial allocation of funds herein appropriated for such department for each of the two fiscal years of the biennium. In the event of a disagreement between the department head and the director, the governor shall make the initial allocation. Changes and transfer in allocation of appropriations as to programs, organizational units and characters of expenditures and creation of characters of expenditures within each fiscal year may be made by the head of the department with the approval of the director of the bureau of the budget. The head of the department may, with the approval of the director of the bureau of the budget, transfer funds allocated to the second fiscal year to the first fiscal year to meet emergencies. Any unexpended balance of funds allocated for expenditures during the first fiscal year of the biennium shall be transferred to a Central Department fund in the bureau of the budget and disposed of in the following manner:

- (1) So much as is necessary to increase the Governor's Contingent Fund to \$150,000 at the beginning of the second fiscal year shall be transferred into the said fund and shall then be expendable for any of the purposes of said fund.
- (2) Any department which has, during the first fiscal year of the biennium, so used the moneys appropriated to it that all of the functions or programs intended by the legislature to be undertaken or performed have been accomplished as effectively as intended but at a lower cost than was anticipated, may submit a plan to the budget director requesting funds not exceeding the amount of moneys so saved, for the purpose of increasing the efficiency, effectiveness, or scope of departmental functions and programs, and upon finding of the budget director that such moneys have been so saved, and that the purpose for which the funds have been requested is in the public interest, he may transfer so much as is necessary and available in the Central Department fund to the department to accomplish such purpose, **provided**, that such transfers shall not exceed the total saved by the department as explained above, and **provided further** that the amount saved by the department shall not be interpreted to include savings resulting from (a) normal turnover of personnel, or (b) inability to fill vacant positions, and **provided also** that such expenditures do not increase the number of positions or level of services above that authorized by the 29th Legislature beyond June 30, 1959.

Each department which the director of the bureau of the budget has found to have reduced the cost of accomplishing any function or program and which has used the moneys so saved as provided in this section, shall make a full and complete report to the 30th legislature on the manner in which such discretionary fund or savings have been used.

- (b) For the purposes of this Act, the term "department" shall include any department, board, bureau, commission, agency, office or institution for which an appropriation is made herein.

SECTION 3. The sum of the figures enclosed in parentheses after the amounts stated for the personal services appropriated for each department is the maximum number of positions that a department is authorized to have at the end of the 1957-1959 biennium and any department having positions over and above the authorized number of positions at the effective date of this Act shall reduce the number of positions by normal attrition or transfer of positions, **provided**, however, that this section shall not apply to any position which is required to perform a function or service of a temporary or non-recurring character nor shall it apply to the classroom teaching positions of the department of public instruction and the University of Hawaii, overhead ratio positions of department of public instruction which are controlled by formulas, the governor's office and Washington Place, and positions not covered by the appropriations herein.

SECTION 4. This Act shall take effect from and after July 1, 1957.

(Approved May 27, 1957.) **H.B. 1, Act 147.** 140)  
(except as to items disapproved on page

## ACT 148

An Act Relating to the Compensation of Public Officers and Employees and Making Appropriations Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. (a) The rates of compensation for personnel of the University of Hawaii, established by the Board of Regents of the University pursuant to section 44-8 and 44-10 of the Revised Laws of Hawaii 1955 and in effect on the effective date of this Act, are hereby increased by seven and one-half per cent, effective July 1, 1957.

(b) The monthly salary ratings of teachers and the monthly salaries of principals, vice principals, and vocational and special teachers, including their differentials, prescribed in Part III of Chapter 38 of the Revised Laws of Hawaii 1955, and in effect on the effective date of this Act, and the monthly salaries of professional officers and employees of the department of public instruction whose positions are classified under section 38-38 of the Revised Laws of Hawaii 1955, and in effect on the effective date of this Act, are hereby increased by \$10, effective September 1, 1957.

(c) The monthly rates of basic compensation, including the longevity increases, prescribed in sections 4-9 and 4-10 of the Revised Laws of

Hawaii 1955 and in effect on the effective date of this Act and any monthly rates continued in effect pursuant to the last paragraph of section 4-10 of the Revised Laws of Hawaii 1955 are hereby increased by \$10, effective July 1, 1957.

SECTION 2. Nothing contained in this Act shall be construed as having the effect of changing the service anniversary date of any officer or employee or delaying any increment earnable by any officer or employee.

SECTION 3. The sum of \$3,849,035, or so much thereof as may be necessary is hereby appropriated from the general revenues of the Territory, in addition to any other sums appropriated for the same or a similar purpose, for the purposes of this Act.

The appropriation made by this section shall be allotted by the director of the bureau of the budget, with the approval of the governor, to the several boards, commissions and officers of the Territory concerned, and to the several counties; in the case of the counties the monies so allotted shall be paid into the county treasuries and held in special funds solely for the authorized purposes. Such moneys shall be expended in the same manner as other appropriations for personal services.

The funds appropriated by this Act shall not be expended to pay the officers and employees of the Territory and counties whose compensation is paid from federal funds or from special funds of the Territory or counties, whether in whole or in part and whether directly or indirectly, to the extent that the amount required to pay the increase in compensation authorized by this Act can be obtained from such federal funds or special funds.

SECTION 4. This Act shall take effect on July 1, 1957.

(Approved May 27, 1957.) H.B. 1215, Act 148.

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### ACT 149

An Act to Amend Act 194 of the Session Laws of Hawaii 1931, as Amended, Relating to the Claim of Wong Nin, to Waive the Statutes of Limitations, and to Authorize Stipulations of Fact, Compromises, and Reinstatement of an Action Previously Filed in Connection Therewith, or the Filing of a New Action.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Act 194 of the Session Laws of Hawaii 1931, as amended, is hereby further amended by adding thereto a new section to be numbered 2-A and to read as follows:

"Sec. 2-A. Any claim mentioned in this Act shall not be affected by the lapse of time and shall not be barred by any statute of limitations. That certain action heretofore filed by Wong Nin in the First Circuit Court of the Territory, entitled 'Wong Nin v. The City and County of Honolulu,' Law No. 13638, which was

dismissed for alleged want of prosecution under section 10104 of the Revised Laws of Hawaii 1945 is authorized to be reinstated **provided** Wong Nin shall have filed a motion for such reinstatement not later than ninety days after the effective date of this section; in the alternative, a new action based upon the claim mentioned in the Act, as amended, may be instituted by the said Wong Nin within ninety days after the effective date of this section, and, if such action is filed within said ninety-day period, this Act, as amended, shall be applicable to such new action and to any recovery thereunder. Anything in this or any other section of this Act to the contrary notwithstanding, stipulations of fact, or of amicable compromise, or both, may be entered into by the parties involved in any action mentioned in this Act, and, if sufficient for that purpose, may be accepted by the court as the basis for the judgment required by this Act. The provisions of this Act shall inure to the benefit of and be available to said Wong Nin and his successors in interest."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 27, 1957.) **S.B. 414, Act 149.**

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### ACT 150

An Act Relating to a Coordinated Program for Improving the Public Facilities and Economic Potential of the Territory, Providing for the Office of the Director of Territorial Planning and Prescribing the Duties Thereof, Providing for Certain Public Improvements and Authorizing Bond Issues to Finance the Same or Making General Fund Appropriations Therefor, and Making Other Appropriations For the Purposes of This Act.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Declaration of purpose.** It is the purpose of this Act to provide a planned, coordinated program for developing the economic potential of the Territory. This purpose is to be achieved in part by allocating the limited funds now available for public improvements to the various projects enumerated in this Act which the Twenty-Ninth Legislature finds will contribute in a material degree either immediately or indirectly through their effects to the economic development of the Territory; in part, by careful study and planning to insure that all such projects and future projects will become integral units of the program for economic development; and in part, by providing executive coordination and legislative cooperation to give maximum effectiveness to that program. This purpose is also to be achieved by an organized effort to gain title to and develop certain land assets which will contribute substantially to the development of the economy of the Territory. As promotion of tourism presents the greatest potential for expanding the economy of the Territory, this purpose is further to be achieved through assuring that the development and expansion of the tourist industry is integrated

and coordinated with the general economic planning for the Territory. And finally, the purpose of the Act is to be achieved through formulation of a long-range, comprehensive general plan in all of the counties which shall encompass not only physical facilities but assisting business, commerce, and industry in achieving maximum utilization of the economic resources of Hawaii.

**SECTION 2. Territorial planning office.** The territorial planning office is hereby created.

The governor shall appoint in the manner prescribed by paragraph 1 of section 80 of the Organic Act a director of territorial planning who shall have had at least six years of city, county, regional or state planning experience or a combination thereof, at least three years of which shall have been in charge of major planning programs.

The director shall be appointed for a term of four years and shall serve until his successor is appointed and qualified. In making such appointment, the governor shall not be limited by any residence requirement of section 5-1. The governor shall fix the compensation of the director without regard to the provisions of chapter 4, and may remove the director in the manner prescribed in paragraph 1 of section 80 of the Organic Act, or, without the advice and consent of the Senate, upon conviction of any felony or misdemeanor involving moral turpitude, or for neglect of duty or malfeasance in office.

The director shall employ, without regard to the requirements of chapter 3 and the residence requirements of section 5-1, an assistant director who shall be in immediate charge of the tourist development activities as set forth in section 4 of this Act and shall serve at the pleasure of the director.

The assistant director shall be a person with sufficient education and experience to formulate plans for the long-range development of the tourist industry in the Territory. His compensation shall be fixed by the director with the approval of the governor and without regard to the provisions of chapter 4.

The director may employ necessary permanent or temporary staff personnel in accordance with the provisions of chapters 3 and 4. The director may with the approval of the governor engage or contract for professional and consulting services with individuals or organizations to execute any of the purposes of this Act.

There is hereby appropriated for the use of the territorial planning office, out of the general revenues of the Territory not otherwise appropriated, the sum of \$250,000. Such moneys shall be expended by the director for the purpose of organizing the office, paying fees and salaries, and any other expenses incurred in the operation of the office or advisory committees.

**SECTION 3. Definitions.** As used in this Act unless the context clearly requires otherwise:

(a) "Agency" means any of the departments, bureaus, authorities, or agencies of the territorial government, or its political subdivisions.

(b) "Construction plan" means the detailed working drawings and specifications of specific structures.

(c) "Council" means the Hawaii development council established in this Act.

(d) "Development fund" means the development fund created by section 5 of this Act.

(e) "Development plan" means a relatively detailed scheme for the placement of specific facilities within a defined area so as to insure the most beneficial use of such area. A development plan is within the framework of the general plan.

(f) "Director" means the director of territorial planning appointed pursuant to the provisions of this Act.

(g) "General plan" means a long-range, comprehensive plan which serves as a guide for the future physical and economic development of the Territory. Such plan shall include but not be limited to a map of each county with a statement of development objectives including (1) a land use element, (2) a transportation element, (3) a public facility element, and (4) a population density element.

**SECTION 4. Duties of director.** The director shall prepare a general plan of the Territory in sections, one for each county. The director shall work in close cooperation with the respective officials and people of each county. The county sections of the general plan, or amendments thereto, shall become effective when enacted by an ordinance of the respective county. Where advisable, the director may prepare, and the board may enact, a portion of the county section of the general plan, where such portion encompasses an integrated geographic area within the county. The general plan may be amended within any county by the director with the board approving the amendment by ordinance. The county may after consulting with the director amend the general plan by ordinance. Once a county section of the general plan, or a portion of such section, is approved, the director may make developmental plans for territorial projects within such section or portion.

The director may furnish planning assistance to the various counties to facilitate the planned development of urban and rural areas. Such planning assistance may be furnished for regions, metropolitan areas and/or communities within each county in order to facilitate urban planning and may include but shall not be limited to surveys, land use studies, urban renewal plans, technical services and other planning work. The director shall work closely with the county officials in the development of urban and rural planning within the counties.

Any of the agencies of the Territory to which general or special appropriations have been made, or a part of whose budget shall contain an allocation, or who shall make an allocation of funds for planning and research, shall consult with the director to insure that all such expenditures are in accordance with, or in furtherance of, the general plan. The governor may withhold the expenditure of such funds by any agency until he is satisfied that such expenditures will implement the general plan or its preparation.

The director shall not have the power to zone or control subdivision development; such responsibilities are reserved to the respective counties.

The director shall prepare necessary development plans. With the approval of the governor, such development plans relating to territorial projects shall be followed by the agencies of the Territory affected by the development plans.

Prior to each regular session of the legislature, the budget director shall supply the director with copies of the various requests for capital expenditures as received from territorial agencies for inclusion in the proposed territorial capital budget. The budget director shall also supply the director with a list of proposed public works to be constructed during the succeeding three bienniums. Each county shall similarly provide the director with a list of necessary capital improvements to be constructed in the respective counties during the succeeding six years. In preparing such lists, the counties shall indicate the contemplated means of financing each project.

The director shall review the various requests for capital expenditures and proposed public works to determine if they are in accordance with the general plan. The director shall prepare a report thereon for the legislature, including his recommendations on the governor's proposed capital budget, and shall forward such report to the members of the legislature at least twenty days prior to the convening of each regular session.

The director shall plan for the integrated and coordinated development and expansion of the tourist industry of the Territory, and, to the extent defined and set forth in this paragraph, shall engage in and perform the operational functions and duties designed to bring about such development and expansion. To this end, he shall investigate and recommend, to the Hawaii visitors' bureau and other appropriate governmental officers or agencies, ways and means of coordinating promotional activities on behalf of tourism with the development of recreational and other facilities for improved tourist accommodation, and specifically the promotion and development of convention tourism and related facilities. He shall, in cooperation with the board of agriculture and forestry, plan and recommend means for establishing a comprehensive system of territorial parks throughout the Territory for the use and enjoyment of both residents and visitors. He shall recommend to the appropriate governmental or other agency or person and shall seek to establish (1) agreements with the United States government for the use of recreational areas and facilities now under the jurisdiction of the armed forces; (2) means of cooperating with the national park service to obtain the greatest use of the national parks located in the Territory; (3) means of developing, in cooperation with county parks boards, beaches, parks and other recreational facilities; (4) means of developing, in cooperation with any branch or agency of the government or with private citizens or organizations, the establishment or improvement of community or other facilities of value to the tourist industry; (5) and means of assisting governmental or private organizations or persons to preserve or improve cultural or historical sites. The director shall review the expenditures of governmental funds by the Hawaii visitors' bureau in order to make any necessary recommendations for the improvement of the coordination be-

tween promotional activities and the development of recreational facilities pertaining to the tourist industry, and he shall prepare a report on such expenditures, together with any recommendations he may have, for transmission to the members of the legislature not less than twenty days prior to the convening of any regular legislative session. He shall also report quarterly on such expenditures to the members of any legislative holdover committee. Any specific recommendation decided upon by the director shall be forwarded promptly to the governor and to the members of the council for appropriate attention and action. The functions and duties of the director described in this paragraph shall be performed, subject to the supervision of the director, by the assistant director appointed under the provisions of section 2 of this Act. The assistant director shall serve as a member of the Hawaii visitors' bureau's executive board, with full privileges of discussion and vote.

The director shall consult with the several boards of supervisors (a member of such board may be designated by the board for such purpose), any legislative holdover committee and the agencies of the Territory and counties, and he may from time to time establish special advisory committees representing business, commerce, industry and the general community of any or all of the several counties, to advise on such matters in the effectuation of his duties as may be deemed necessary.

**SECTION 5. Operational functions and funds.** The governor of the Territory shall be primarily responsible for coordinating the activities of the several agencies of the Territory within the framework of the general plan. However, he may delegate his powers and duties under this Act to the secretary of Hawaii.

To assure the most efficient coordination, the governor shall consult with a council consisting of the superintendent of public works, the commissioner of public lands, the executive director of the Hawaii water authority, the executive director of the Hawaii aeronautics commission, the chairman of the territorial commission on historical sites, the executive secretary of the Hawaii visitors' bureau, the director of the economic planning and coordination authority, the director of the land study program of the University of Hawaii, the director of the bureau of the budget, the president of the board of agriculture and forestry and the heads of such other agencies as may be designated by the governor. The advisory committee so constituted shall be known as the Hawaii development council. The council shall meet quarterly and at such other times as shall be directed by the governor to consider matters relating to the execution of the general plan.

Each member of the council shall report in writing to the governor at each quarterly meeting as to the status of each portion of the general plan required to be executed by his agency. Such reports shall set forth the work to be completed during the next quarter.

There is hereby created a development fund, and there is hereby appropriated to said fund out of the general revenues of the Territory not otherwise appropriated the sum of \$300,000 to be expended by the governor upon the written recommendation of the director. Before making such recommendations, the director shall consult with any legislative



holdover committee that may be established. Such expenditures shall be for the following purposes:

(a) To supplement funds available to various agencies for authorized projects for the purpose of (1) conducting additional surveys or studies, or (2) employing additional personnel, technical assistants, consultants or firms in order to assure the prompt completion of such projects;

(b) To make grants to develop physical facilities and set up or extend promotional activities in furtherance of the purposes of this Act. Such grants may include (1) supplementation of insufficient funds to develop projects authorized under this Act, (2) making available funds to relocate the national guard and other territorial facilities in Diamond Head Crater and Fort Ruger upon Congressional approval of the transfer of the title of such area to the Territory, or (3) carrying out specific recommendations made by the director.

No grant shall be made from the development fund for the improvement or development of a physical facility to be owned by any private individual, group or organization and operated for profit, nor shall any such grant be made for the improvement or development of facilities or for promotion unless on a matching basis, unless the governor shall find that the facility or promotion in question is vital to the development of the economy and no matching funds from either governmental or private sources are reasonably available. The director shall submit a written report of all expenditures he has recommended and authorized by the governor to the next legislature.

SECTION 6. The director, in formulating the general plan, shall consider the following major projects:

(a) **Reclamation of submerged lands.** The director shall determine which submerged lands on all of the islands are suitable and economically feasible for reclamation and development. The director shall co-operate with the commissioner of public lands in preparing development plans for such lands within the general plan. It is the intention of the legislature that such reclamation proceed as soon as legally and financially feasible. Nothing herein shall be deemed to prejudice the powers of the commissioner of public lands with respect to those areas of reclaimed or reclaimable lands which are or come under his control.

(b) **Military lands.** The director shall prepare such plans and recommendations as may be necessary to support and present the request of the territorial government to the federal government for the return to civilian use of Fort De Russy, Fort Ruger, Diamond Head, Bellows Field and Sand Island.

(c) **Island transportation.** The director shall study the economic feasibility of further development of land, air and water transportation so as to facilitate the inexpensive movement of persons and goods between and across the various islands of the Territory and the development of the tourist industry. This study shall compare the relative feasibility of a water and highway transportation system as compared with an air and highway system. In making this comparison, the director shall also compare the relative advantage of the long-haul and the short-haul ferry

systems and the various means of financing and operating such systems as may be available.

(d) **Capitol site.** The director shall study the need for a capitol site and shall consider the long-range needs of the agencies of the territorial government and the related needs of the city and county of Honolulu. After consulting with any legislative holdover committee, the governor, the council, the citizen's committee appointed under Senate Concurrent Resolution 9 of the Twenty-Ninth Legislature and other appropriate persons and agencies, he shall make recommendations as to (1) location of the capitol site, (2) the development of the site, (3) the type of building or buildings to be erected, and (4) suggested means for financing the development.

(e) **Industrial sites.** The director shall determine the need for and proper placement of sufficient industrial sites to meet the needs of the Territory for future industrial expansion. In preparing development plans for submerged lands and other areas the director may designate appropriate industrial areas and cooperate closely with the economic planning and coordination authority to attract such new industries as will benefit the economy of the Territory.

(f) **Water systems.** The director with the cooperation of the Hawaii water authority shall determine the need and economic feasibility of establishing water sources and systems for underdeveloped or arid areas in the Territory.

SECTION 7. (a) That the following sums, or so much thereof as shall be sufficient to accomplish the purpose designated by the appropriations, are hereby appropriated, to be expended by the department of public works for the biennial period beginning July 1, 1957 and ending June 30, 1959 out of moneys in the treasury received from general revenues:

#### 1. AGRICULTURE AND FORESTRY, BOARD OF

a. Forestry Projects on Oahu	
Restroom and shelter at Keaiwa Park, Oahu (\$2,500) and five fire toolhouses	3,150
b. Forestry Projects on Maui	
Fire toolhouse and restroom, Kula; restrooms and shelters, Iao Park; restrooms, Pua Kaa Falls	1,350
c. Animal Quarantine Station on Oahu	
Replace wiring system condemned by City and County Building Department	5,000
d. Dog Kennels and Runs on Oahu	34,000
e. Plant Quarantine House, Kahului, Maui	6,700
f. Pavilion and restrooms, Kokee, Kauai	7,000

#### 2. HARBOR COMMISSIONERS, BOARD OF

a. Small Boat Harbor—mooring facilities, Kawaihae, Hawaii	20,000
b. Keanae Canoe Landing, Maui	5,000

3. HAWAII WATER AUTHORITY	
a. Kona Water Study	50,000
b. Ionic membrane and well for Kona Water System, to be maintained and operated by Board of Water Supply, County of Hawaii	23,500
4. HEALTH, DEPARTMENT OF	
a. Cinemascope, Hale Mohalu Theatre	7,000
b. Radiological Health Program, Bureau of Industrial Hygiene	28,000
c. Paving of Existing Dirt Roads at Kalaupapa Settlement, Molokai	20,000
d. Waiakea Health Center, Hawaii	7,000
5. INSTITUTIONS	
a. Territorial Hospital—fire hydrants	15,000
b. Division of Training Schools Renovation of Refrigeration Plant, Kawailoa Girls' Home	30,000
6. JUDICIARY	
Supreme Court	
a. Reinforcement of floors in library	25,000
b. Improvement of lighting in library	2,500
First Circuit Court Proper	
c. Wash basins and toilets	2,500
d. Women Juror's restroom	4,700
Juvenile Court	
e. Install sound absorbent ceilings	6,744
f. Construct sound absorbent louvered partitions between probation officers' offices	3,750
Juvenile Detention Home	
g. Completion of escape-proof hollow tile wall around mauka play area	1,998
h. Completion of construction of boys' wing	22,890
i. Installation of three drains for boys' and girls' courtyard	720
j. Construction of hollow tile escape-proof wall to enclose girls' recreation area	606
Third Circuit Court	
k. Equipment for Circuit Court	4,000
7. LIBRARIES	
Library of Hawaii	
a. Renovations, Main Library Bldg.	47,500
b. Books, supplies, and equipment	102,000
Maui County Free Library	
c. Kahului Library, Equipment and supplies	20,000

Hawaii County Library	
d. Books, Purchase and Binding	13,000
e. Addition to Kona Branch Library, Kealahou, Hawaii	8,000
8. MILITARY DEPARTMENT	
a. Addition to Lihue Armory, Kauai	16,890
b. Addition to Keaukaha Armory	29,500
9. PUBLIC INSTRUCTION	
a. Shower and Lavatory Facilities, Lahainaluna High School, Maui	15,000
10. PUBLIC WORKS	
Oahu	
a. Keelikolani Building, partitioning and strengthening of windows	25,000
b. Department of Public Lands, steel shelving	1,500
c. Territorial Office Building, rehabilitation	15,000
Maui	
d. Makawao Park (To be expended by Maui County)	15,000
e. Continuation of Access Road, Kula Forest Reserve	25,000
f. Maui Historical Sites (To be expended by Maui Historical Sites Committee)	18,000
g. City Planning (To be expended by Maui Planning Commission)	37,000
Kauai	
h. Kapaa Beach Natatorium	90,000
11. TAX COMMISSIONER	
Oahu	
a. Lighting Installation	5,000
b. Floor Covering	3,232
Hawaii	
c. Additions to Hilo Office	5,500
12. UNIVERSITY OF HAWAII	
a. Demolition of barracks building now used for Military Science and old gymnasium, landscaping and plantings at corner of University Avenue and Dole Street, and in the library area	15,000
b. Off-street Parking	24,000
c. University of Hawaii Athletic Field	50,000
13. EQUIPMENT FOR NEW BUILDINGS (To be expended by Budget Bureau)	350,000
14. ECONOMIC PLANNING AND COORDINATION AUTHORITY	
a. Promotional program of passion fruit industry	15,000

(b) The superintendent of public works is authorized to delegate to departments the planning and construction of projects under subsection (a), when it is determined by him that it is more advantageous to do so.

(c) In case the amount specified in any item of subsection (a) shall not be wholly required to complete the work of such item the unrequired balance may, after completion of said work or after it is definitely found by the superintendent of public works that not more than a specified amount will be required to complete said work, be expended for the work specified in any of the other items with the approval of the governor, or the director of the bureau of the budget if so delegated by the governor.

SECTION 8. (a) The following sums, or so much thereof as shall be sufficient to accomplish the purpose designated by the appropriations, are hereby appropriated for the following purposes out of any moneys hereafter received by the treasurer of the Territory of Hawaii for or on account of bond funds, and general obligation bonds may be issued as provided by law to the extent necessary to yield the amounts herein appropriated or so much thereof as may be necessary:

#### 1. TERRITORIAL IMPROVEMENTS—OAHU

a. Roadway to Duke Kahanamoku Beach, Ala Wai Boat Harbor	90,000
b. Pokai Bay, mooring facilities (to be expended by the Board of Harbor Commissioners)	50,000
c. Improvements to Haleiwa Beach and breakwater— the breakwater to be so constructed as to allow free flow and circulation of sea waters (to be expended by the Board of Harbor Commissioners)	75,000
d. Territorial Hospital	
(1) Medical Surgical Building	140,000
(2) Two-ward Building	140,000
(3) New Maintenance Shops	75,000
e. Waimano Home, Dormitory	125,000
f. Hale Mohalu, flood control	65,000
g. Kaimuki Branch Library, extension and alterations	60,000
h. Extension, branch and library for the blind, Waikiki-Kapahulu	150,000
i. Wahiawa Armory	18,000
j. Five-unit Armory, Hawaii National Guard	113,000
k. Dormitory, Diamond Head School for the deaf and blind	110,000
l. Honolulu Technical School	750,000
m. Kapiolani Technical School	500,000
n. Iolani Palace, rehabilitation	100,000
o. Territorial tax office, mezzanine	150,000
p. University of Hawaii	
(1) Engineering-Physics Building	632,000

(2) Classrooms	1,500,000
(3) Animal and Poultry Science Building	294,000
(4) Music Building	185,000
(5) Lockers and showers, University High School	42,000
(6) Extension Service Building	100,000
(7) Improvements to roads and drainage	185,000
q. Aiea Branch Library, Building, Equipment	150,000
r. Kaimuki Civic Auditorium (on Kaimuki High School grounds)	500,000
s. Gymnatorium for Kailua community (on Kailua High School grounds)	250,000
t. Kuakini Hospital	250,000
u. Planning and construction of water system to transport water from Pearl Harbor Basin to Waianae areas, to be constructed by the City and County of Honolulu and to become part of the Suburban Water System upon completion	4,500,000
v. Nuuanu Pali Scenic Stop	51,000
w. Kalia-Kewalo Reef Development (Magic Island) off Ala Moana Park (to be expended by the Commissioner of Public Lands)	2,500,000
x. Wahiawa General Hospital	250,000
y. Aina Haina Library	150,000

## 2. TERRITORIAL IMPROVEMENTS—MAUI

a. Kihei Water Development (These funds shall be made available to the Maui County Waterworks Dept. Such project not to be undertaken unless there is assurance of tourist development)	750,000
b. Lahaina—Convention Dome Auditorium	200,000
c. Wailuku War Memorial—Convention Gym	300,000
d. Beach Development—Maui County For acquisition, redevelopment of land and construction of beach area, Maui County. Such funds to be made available to the Maui County Board of Supervisors	285,000
e. Round the Island Road—Waihee Road to Lahaina—(Territorial Highway Dept.)	400,000
f. Kula Experiment Station for land construction and equipment	85,000
g. Kula Water Development	1,150,000
Development at source	450,000
Pumping	50,000
Transmission lines	450,000
Omaopio Lateral	50,000
Storage improvement	150,000
(Funds in item "g" to be made available to the Maui County Waterworks Department.)	

Said funds to be used for development to furnish water to present system and thus alleviate drought etc.) Funds may be transferred from one project to another.

h. Kalaupapa Cottages	110,000
i. Kahului Library (Including land acquisition)	91,000
j. Maalaea Small Boat Harbor (to be expended by the Board of Harbor Commissioners)	150,000
k. Lahaina Small Boat Harbor (to be expended by the Board of Harbor Commissioners)	90,000
l. Molokai Small Boat Harbor (to be expended by the Board of Harbor Commissioners)	75,000
m. Lanai Small Boat Harbor (to be expended by the Board of Harbor Commissioners)	70,000
n. Laboratory Building, Wailuku	25,000
o. Territorial building—land and building	400,000
p. Paukukalo Shooting Range	15,000
q. Kalaupapa Park	20,000
r. Renovation—Second Circuit Court	60,000
s. Lanai Air Terminal (to be expended by the Hawaii Aeronautics Commission and to be reimbursed by airport fund)	50,000
t. Maui Technical School	150,000
u. Extension of Iao Road to Forest Reserve into table land	200,000
v. Flood Control—Maui County	100,000
w. Hana Belt Road Development (Territorial Highway Dept.)	300,000

### 3. TERRITORIAL IMPROVEMENTS—HAWAII

a. Kona Water Development (to be expended by the Hawaii Water Authority)	1,500,000
b. Beach improvements—South Hilo, Hawaii	300,000
c. Chain of Crater Road—Chain of Crater to Kalapana	115,000
d. Small Boat Harbor (Kailua, Kona) (to be expended by the Board of Harbor Commissioners)	250,000
e. Waimea Irrigation Project—Lalamilo Extension—(to be expended by Hawaii Water Authority)	370,000
f. Wailoa River Park—Hawaiian Village, include Approach Road	300,000
g. Relocation of Kona, Kailua Airport—project to be completed by sale of present airport site (to be expended by the Hawaii Aeronautics Commission and to be reimbursed by airport fund)	265,000
h. Kona Hilo Road	200,000
i. Keaukaha—Five-Unit Armory	115,150
j. Kealakekua—Two-Unit Armory	71,700
k. Pahala Library	63,760

l.	Repair and resurfacing of Kuhio Village Road, Kamuela, Hawaii	70,000
m.	Reeds Bay—Small Boat Landing (to be expended by the Board of Harbor Commissioners)	37,500
n.	Concrete Seawall along Liliwai Street from Wailoa Bridge or Kamehameha Avenue—makai to fish unloading platform (to be expended by the Board of Harbor Commissioners)	70,000
o.	Kohala Mountain Road	100,000
p.	Territory Building—Hilo	450,000
q.	Road, Honokaa-Kukuihaele to Waipio Lookout	300,000
r.	Widening of Kaeiei Homestead Road, Papaikou, Hawaii	60,000
s.	Construction of road along Lot 36 in Lot 38 at upper Pohokea, Homesteads, Hamakua	20,000
t.	Kaohe Homestead Road, Pahoa	30,000
u.	Wood Valley Homestead Road	30,000
v.	County of Hawaii Library Addition	70,000
w.	Resurfacing of Hakalau and Kaiwiki 3rd Homestead road from junction of Chinn Chuck road at Lot 30 (Hakalau Homestead) along Kaiwiki road to Lot 22 (Kaiwiki 3rd Homestead)	50,000
x.	Repair and resurfacing of Saddle Road (to be expended by Dept. of Public Works)	100,000
y.	Kamuela Experiment Station (University of Hawaii)	60,000
z.	Hilo Experiment Station (University of Hawaii)	80,000
aa.	Homestead Road — Haihai Street, Hilo	20,000
bb.	Puainako Street Extension	100,000
cc.	New classroom and covered walkway at Hilo Branch of University of Hawaii	155,000
dd.	Kaimu Homestead Road, Pahoa, Puna	30,000
ee.	Panaewa Subdivision Roads, Hilo, Surfacing	100,000
ff.	Keaukaha Escape Road, Hilo	100,000
gg.	Road, Kapaau to Niulii, widening and improving	40,000
hh.	Development of the unimproved portion of Kapiolani School Grounds	30,000
ii.	Improvement of Akaka Homestead Road, Hawaii	25,000
jj.	Construction and paving of Kaapahu Homestead Road	20,000
kk.	Repairing and painting of Kawananakoa Hall Keaukaha, Hawaii	25,000
ll.	West Road towards Lot 912-1099 South Hilo	25,000
mm.	Hoaka Road — Waiakea-Uka	20,000
nn.	Maloai Road	25,000
oo.	Hamakua Belt Road toward completion	385,000
pp.	Happy Homes, Kurtistown — Water Systems	65,000
qq.	Small Boat Harbor, Pohoiki (to be expended by	



	the Board of Harbor Commissioners)	25,000
rr.	Pohoiki Road	50,000
ss.	Resurfacing and widening of Puako Road, Kawaihae, Hawaii	60,000
tt.	Resurfacing and widening of Hawaii Belt Road, Palani Junction to Holualoa	50,000
uu.	Resurfacing and widening of Palani Road to Kailua, Kona, Hawaii	50,000

## 4. TERRITORIAL IMPROVEMENTS—KAUAI

a.	Acquisition of land and rights-of-way for construction of canals at Waipouli and Wailua	175,000
b.	Construction of Wailua River Groin and Embankment along Territory highway road, Wailua	90,000
c.	Acquisition of land and construction of a territorial building for housing of Health and Tax Offices, Lihue	375,000
d.	Acquisition of land by condemnation if necessary and construction of a gymnasium at Kaumakani	125,000
e.	Construction of Kapaa Health Center	50,000
f.	Construction of Gymnasium and Auditorium, Kalaheo	75,000
g.	Repair Groin and Embankment, Anini River mouth	25,000
h.	Construction of retaining walls of Waiakea and Moikeha Canals, Kapaa	85,000
i.	Construction of Kauai War Memorial Auditorium, Lihue; Structure, fixtures and improvements	150,000
j.	Construction of Anahola Pavilion and restrooms	50,000
k.	Construction of a Pavilion and restrooms at Lydgate Park	50,000
l.	Flood control at Hanalei	175,000
m.	Enclosed baseball park, Hanapepe, Kauai	75,000
n.	Wailua River and Beach developments, land pier (to be expended by the Board of Harbor Commissioners)	150,000
o.	Master planning as a tourist resort area and construction of water system and widening of roads at Poipu	250,000
p.	Beach development and summer camp. acquisition of lands, Hanalei	100,000
q.	Beach development and summer camp at Hanamaulu	25,000
r.	Access roads to Waipahee sliding falls	50,000
s.	Access Roads to Kalalau Lookout Valley, Kokee	5,000
t.	Access roads to Upper Wet Caves, Haena	5,000
u.	Development of Domestic water system (to be expended by the Hawaii Water Authority)	200,000
v.	Extension of Hanalei road to Kokee	500,000
w.	Construction of pavilion and restrooms Kokee	15,000
x.	Construction of auditorium for conventions at Kapaa; acquisition of land and improvements.	300,000

y.	Development of beach and pavilion and restrooms at Anini	25,000
z.	Construction of agricultural experiment station, Kawaihau District	100,000
aa.	Construction of pavilion and restroom at Hanalei	25,000
bb.	Beach development, Kekaha	75,000
cc.	Recreation camp — including lodges — board of agriculture and forestry; for the use of local and tourist people and development of water facility for same (entire island)	300,000

(b) The foregoing appropriations shall be deemed to include the preparation of necessary plans and the superintendent of public works is authorized to plan and construct the projects listed in subparagraph (a) unless otherwise specified.

(c) In the event it is found possible to secure federal funds in connection with or for the construction of any of the projects or works authorized in this Act, the provisions of chapter 12, Revised Laws of Hawaii 1955, shall apply.

(d) The governor upon recommendation of the director of territorial planning shall determine when the authorized projects shall be initiated, taking into consideration the factors of public need, current bond market conditions, general financial condition of the Territory and general economic conditions, and shall have the authority to defer projects for reconsideration by the ensuing legislature whenever it is determined (1) that the amount appropriated is insufficient to accomplish the purpose for which the appropriation is made, and (2) that the bonds authorized and unissued are in excess of the debt margin of the Territory prescribed in the Hawaii Organic Act, as amended.

(e) The purchase of lands and the construction of buildings shall be subject to the approval of the governor upon recommendation of the director of territorial planning as to what lands should be utilized or purchased, and as to the type, size, arrangement, dimensions, lighting and sanitary facilities of the buildings.

(f) The Hawaii water authority shall pay to the Territory for advances from general obligation bonds issued by the Territory under this Act for items 3-a, 3-e and 4-u in the following manner:

Upon expiration of ten years from the time of initial irrigation service to the project, which ten-year term shall be the development period, the authority shall pay into the treasury from its tolls and assessments on said project, as repayment over the period of the next succeeding forty years after termination of the development period, the total of which payments shall be sufficient to reimburse the Territory for redemption of said bonds together with interest paid by the Territory in respect of the same.

The foregoing method of repayment of advances shall be effective for each phase of a multiphase project, the amortization period for the advancement commencing ten years from the time that

facilities to provide irrigation service for each new project phase are put into operation.

In the event that changing use of the land in a project substantially increases revenues or other circumstances make it reasonably possible or desirable for the authority to accelerate the amortization of advances, it shall be permitted to do so.

(g) The unrequired balance of appropriation remaining after the completion of any project may be transferred to another project authorized in this Act for the same department with the approval of the governor or the budget director if so delegated by the governor.

(h) Upon certification of the spending agency and approval by the governor that the purpose of the appropriation has been accomplished and all financial obligations incurred have been met, the appropriation shall be reduced by the amount of the unrequired balance of the appropriation.

**SECTION 9. Federal Funds.** Where the governor or any agency of any governmental unit is able to secure federal funds made available under any Act of the Congress of the United States to be expended in connection with or for the planning and/or construction of any of the projects or works authorized by this Act, the governor or agency shall have the power to enter into such undertakings with the proper officers or agencies of the federal government.

**SECTION 10. Temporary director and staff.** In order to set into motion the functions of the office of the director of territorial planning at the earliest possible date, the director of the economic planning and coordination authority is hereby designated the acting director of territorial planning in addition to his other duties for such period of time not to exceed ninety days as may be necessary to recruit a permanent director and to do any and all other things necessary to expedite the purpose of this Act. The permanent staff of the economic planning and coordination authority shall serve as the temporary staff of the office of the director of territorial planning until the permanent director is appointed.

**SECTION 11. Severability.** If any portion of this Act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of this Act and each and every other provisions thereof shall not be affected thereby.

**SECTION 12.** This Act shall take effect upon its approval.

(Approved May 27, 1957.) **S.B. 779, Act 150.**

### ACT 151

An Act Relating to the Definition of a Public Utility.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The second paragraph of **Section 104-1**, Revised Laws of Hawaii 1955 (i.e., the paragraph defining "Taxicab"), is hereby amended to read as follows:

"'Taxicab' means and includes: (1) any motor vehicle used in the movement of passengers on the public highways under the following circumstances, namely, the passenger hires the vehicle on call or at a fixed stand, with or without baggage for transportation, and controls the vehicle to the passenger's destination; and (2) any motor vehicle having seating accommodations for eight or less passengers used in the movement of passengers on the public highways between a terminal, i.e., a fixed stand, in the city of Honolulu, as defined in Section 149-2, Revised Laws of Hawaii 1955, and a terminal in a geographical district outside the limits of the city of Honolulu, and vice versa, without picking up passengers other than at the terminals or fixed stands; **provided** that passengers may be unloaded at any point between such terminals; and **provided further**, that this definition relating to motor vehicles operating between such terminals shall pertain only to such motor vehicles whose operators or owners were duly licensed (under Section 155-111, Revised Laws of Hawaii 1955, and any other applicable provision of law or ordinance) and doing business between such terminals on January 1, 1957."

SECTION 2. This Act shall take effect upon approval.

(Approved May 27, 1957.) **H.B. 139, Act 151.**

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### ACT 152

An Act Relating to the Auditor and Deputy Auditor of the Territory, Changing Their Titles to Comptroller and Deputy Comptroller Respectively, and Defining Their Powers and Duties.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The auditor and deputy auditor of the Territory shall hereafter be known and entitled respectively as the comptroller and deputy comptroller of the Territory. Wherever the words "auditor" and "deputy auditor" occur in the Revised Laws of Hawaii 1955, they are hereby amended to read "comptroller" and "deputy comptroller", as the context requires.

SECTION 2. The powers, duties and functions of the auditor and deputy auditor shall continue without interruption and shall be exercised by the comptroller and deputy comptroller, except to the extent they may be conferred or imposed upon the post auditor of the Territory, should such an office be created, and to that extent, in respect of the

comptroller and deputy comptroller, they shall terminate.

SECTION 3. This Act shall take effect on July 1, 1957.

(Approved May 27, 1957.) **H.B. 312, Act 152.**

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### ACT 153

An Act to Amend Section 46-13 of the Revised Laws of Hawaii 1955, and Adding Chapter 62B thereto Relating to the Authority of the Board of Health to Regulate the Practice of Fumigation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 46-13** of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a subsection to read as follows:

"(x) Fumigation. The process by which substances emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents or other pests, which, in the opinion of the board, may be lethal, poisonous, noxious or dangerous to human life."

SECTION 2. There is hereby added to the Revised Laws of Hawaii 1955, chapter 62B to read as follows:

#### "CHAPTER 62B. FUMIGATION

**Section 62B-1. Fumigator; Definition.** For the purpose of this chapter a fumigator shall mean any person licensed hereunder to employ any substance or substances that emit or liberate gases, fumes, or vapors which may be used for the destruction or control of insects, vermin, rodents or other pests, which, in the opinion of the board, may be lethal, poisonous, noxious or dangerous to human life.

**Section 62B-2. Licensed by Board of Health.** The board of health shall upon payment to it of a fee of \$20, cause each applicant for a fumigation license to be examined to determine his eligibility for such license. The board may appoint an advisory committee consisting of not less than seven (7) members, two of whom shall be selected from the fumigation profession.

**Section 62B-3. Examinations.** The examination required by section 62B-2 shall be in writing and shall be upon such subjects as the board may by regulation prescribe for the purpose of determining that the applicant possesses sufficient knowledge of the use of fumigants, vapors, fumes, safety devices, techniques and methods as shall be sufficient to insure the public safety and the safety of persons engaged in fumigation. Such examination shall be adapted to one class of the several classes of license as the board may establish by rules and regulations as hereinafter provided.

**Section 62B-4 Rules and regulations.** The board shall have power to prescribe rules and regulations as it shall deem necessary to the public safety relating to fumigation, which regulatory pow-

ers shall include the power to issue various classes of licenses based upon the experience and qualifications of the applicants.

**Section 62B-5. Residence and other requirements.** No license shall be issued to any applicant who has not been a resident of the Territory for one year, who does not provide proof of good moral character and who has not served as an apprentice to a licensed fumigator.

**Section 62B-6. Apprentice.** Upon the payment of a license fee of \$2, any person at least eighteen years of age, of good moral character and a resident of the Territory may be licensed as an apprentice to a fumigator holding a license issued hereunder.

**Section 62B-7. Renewals.** Each licensed fumigator or licensed apprentice shall between July 1 and 15 of each year renew his license by registering with the board and paying a renewal fee of \$2. Every license not so renewed shall expire on July 16 and shall not be renewed except upon the payment of \$20. No license shall be reissued to any licensee more than two years after the expiration thereof except upon renewed application and examination as provided by this chapter.

**Section 62B-8. Insurance.** No person shall engage in the business of fumigation unless he shall have filed with the territorial treasurer a general liability insurance policy approved by the treasurer in the minimum amount of \$20,000 for any one claim and a minimum aggregate of not less than \$50,000 for all claims arising during a policy term of one year. In the event such policy cannot be obtained, the licensee may file with the treasurer in lieu thereof a verified statement providing proof satisfactory to the treasurer of financial responsibility equivalent to that provided for by any such insurance policy, **provided**, that no employee of any company need have such policy in effect with respect to work covered by a policy of the company by which he is employed. This section shall not apply to vault fumigation.

**Section 62B-9. Persons now under permit.** Any person who, on or after January 1, 1951, was operating as a fumigator under a permit issued by the board shall, without requirement of examination, receive a license commensurate to the class of active permit presently held by him. Any person administering or who may administer the fumigation control program of the board shall also be granted the highest class of license, **provided** that such license shall be surrendered to the board upon termination of his employment with the board.

**Section 62B-10. Prohibition of Use.** Whenever in the opinion of the board any practice, device, machine, or equipment used is unsafe, or dangerous, posing imminent hazard to the health, life and safety of any employee or public, the board shall prohibit such practice, device, machine or equipment until satisfactorily corrected.

**Section 62B-11. Suspension or revocation.** The board may

suspend or revoke any license upon proof of unfitness, violation, or misconduct of the licensee. No license shall be revoked unless the licensee shall be first notified in writing of the charges upon which such revocation is proposed and given an opportunity to be heard in his own defense before the board.

**Section 62B-12. Application of Act.**

(a) Sections 62B-5 and 62B-6 of this act shall not apply to any person who has filed an application for license prior to the effective date of this act. Such application shall be processed and examined under rules and regulations of the board in effect at date of application.

(b) This act shall not apply to the activity of any individual, company, corporation or association engaged in pest control; **provided**, that it shall apply to the activities of any such individual, company, corporation or association which require a fumigant permit or license pursuant to any other law, rule or regulation of the board."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1957.) H.B. 533, Act 153.

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**ACT 154**

An Act to Amend Section 153-8 of the Revised Laws of Hawaii 1955, Relating to Petition by Owners of Sixty Per Cent of Frontage or Area for Improvements and Section 153-9 of the Revised Laws of Hawaii 1955, Relating to Petition by Owners of One Hundred Per Cent of Frontage or Area for Improvements.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 153-8** of the Revised Laws of Hawaii 1955 is hereby amended by adding the following paragraph thereto:

"An improvement district under the provisions of this section may be initiated by the board on its own motion as an alternative to initiation by petition of the owners and lessees as hereinabove provided. Under this alternative method the written consent of sixty per cent of such owners and lessees shall be obtained before proceeding with the improvements."

SECTION 2. The last paragraph of **section 153-9** of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"No such improvement shall be approved by the board, if the cost of improvement exceeds fifty per cent of the market value of the land, plus the cost of the proposed improvement thereon; **provided**, that if the cost of the proposed improvement exceeds fifty per cent of the said market value of the land, plus the cost of the proposed improvement, the improvement may be approved by the board upon deposit of cash or certified check to the extent of the

amount by which the cost of improvement exceeds fifty per cent of said market value, plus the cost of proposed improvement.

An improvement district under the provisions of this section may be initiated by the board on its own motion as an alternative to initiation by petition of the owners and lessees as hereinabove provided. Under this alternative method the written consent of one hundred per cent of such owners and lessees shall be obtained before proceeding with the improvement."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 27, 1957.) **H.B. 1050, Act 154.**

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### ACT 155

An Act to Amend Section 142-1 of the Revised Laws of Hawaii 1955, Relating to Definition of Public Highways, by Amending the Sixth Sentence thereof, Relating to Acceptance of Public Highways by the Board of Supervisors of the Various Counties.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sixth sentence of **section 142-1** of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"In every case where such road, alley, street, way, lane, trail, bridge or highway has been constructed and completed as required by any ordinance of the county or any rule, regulation or resolution thereof having the effect of law, the board of supervisors of the county shall accept the dedication or surrender of the same without exercise of discretion."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 27, 1954.) **H.B. 1167, Act 155.**

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### ACT 156

An Act Amending Chapter 3 of the Revised Laws of Hawaii 1955, Relating to Public Officers and Employees and Civil Service.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 3 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(1) By amending subparagraph (c) of **section 3-20** thereof by deleting the word "Service" in the first line of said subparagraph and substituting therefor the word "Positions;";

(2) By amending subparagraph (h) of **section 3-51** thereof by deleting the word "Services" in the first line of said subparagraph and substituting therefor the word "Positions;";

(3) By amending subparagraph (h) of **section 3-61** thereof by deleting



the word "Services" in the first line of said subparagraph and substituting therefor the word "Positions."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 27, 1957.) **S.B. 164, Act 156.**

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### **ACT 157**

An Act Relating to the Position Classification Plans of the Territory and the Various Counties.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 3-19 of the Revised Laws of Hawaii 1955 is hereby amended by amending subparagraph (3) of paragraph (h) thereof to read as follows:

"(3) Reallocate positions to recognize material changes in duties and responsibilities or to correct a previous action. Reallocations shall be made effective retroactively to the beginning of the pay period immediately following the date the application for reclassification was filed with the director."

SECTION 2. This Act shall take effect on or after July 1, 1957 and shall apply only to applications for reclassification that are filed on or after July 1, 1957.

(Approved May 27, 1957.) **S.B. 184, Act 157.**

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### **ACT 158**

An Act Amending Chapter 112 of the Revised Laws of Hawaii 1955, Relating to Registration of Certain Vessels with the Board of Harbor Commissioners.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 112-40 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**Sec. 112-40. Registration of certain vessels.** All vessels, including all classes of floating equipment whether powered or non-powered, except row boats and non-powered sailing craft, shall be required to be registered under regulations of the board unless they are registered by a federal government agency. No other territorial agency shall have power to register or assign registration numbers to vessels or floating equipment. Transient craft visiting the Territory need not register unless the period of stay in the Territory exceeds ninety days."

SECTION 2. Section 112-41 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 112-41. Application for registration.** The owner or per-

son in control of any vessel requiring registration shall make written application to the board for the registration or re-registration thereof. Said application shall be on forms provided by the board."

SECTION 3. **Section 112-42** of the Revised Laws of Hawaii 1955 is hereby repealed.

SECTION 4. **Section 112-43** of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 112-43. Registration number.** Upon being satisfied that the statements set forth in any such application for registration of a vessel are true, the board shall cause the vessel described in the application to be registered in a book or card index system to be kept for that purpose, and shall give to the applicant a distinguishing registration number. Such registration number shall be attached in a conspicuous place as prescribed by regulation of the board."

SECTION 5. **Section 112-44** of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 112-44. Re-registration.** The re-registration of such vessels shall be required whenever there is a change of ownership so as to indicate the change in the name of the owner. The re-registration may be made under the original number."

SECTION 6. **Section 112-45** of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 112-45. Time of registration.** All vessels shall be registered prior to January 1, 1958. Thereafter all newly constructed or purchased vessels shall be registered or re-registered within ten days of completion of construction or purchase."

SECTION 7. **Section 112-46** of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**Sec. 112-46. Fees.** Fees covering registration shall be established by regulation of the board and may vary with the size of the vessel registered."

SECTION 8. This Act shall take effect upon its approval.

(Approved May 27, 1957.) **S.B. 337, Act 158.**

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## ACT 159

An Act to Amend Chapter 160 of the Revised Laws of Hawaii 1955, Relating to Chauffeurs, Drivers and Operators of Motor Vehicles.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 160 of the Revised Laws of Hawaii 1955 is hereby amended by amending paragraph (c) of **section 160-33** thereof to read as follows:

**"(c)** Any nonresident who is at least twenty years of age and who has in his possession a valid operator's license issued to him

NON-RESIDENT DRIVER'S LICENSE  
CONDEMNATION OF PUBLIC PROPERTY  
STRIP MINING

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in his home state or the Dominion of Canada may operator a motor vehicle in this Territory only as an operator for a period of not more than ninety days."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 27, 1957.) **S.B. 855, Act 159.**

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**ACT 160**

An Act to Amend Section 8-51 of the Revised Laws of Hawaii 1955, by Adding a New Sentence at the End thereof, Relating to Payment of Compensation or Damages for Condemnation of Public Property.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 8-51** of the Revised Laws of Hawaii 1955 is hereby amended by adding a new sentence at the end thereof to read as follows:

"Compensation or damages shall be paid by the condemning authority for the condemnation of any public property taken under the provisions of this chapter."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 27, 1957.) **S.B. 285, Act 160.**

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**ACT 161**

An Act Regulating Strip Mining.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Purpose.** This Act shall be deemed an exercise of the police powers of the Territory, for the protection of the property, economic welfare and health of the people of the Territory by providing for the restoration, conservation and improvement of areas of land subjected to "strip mining"; to aid thereby in the protection of natural resources and game, bird and wild life; to enhance the value of such land for taxation; to decrease soil erosion, hazard of floods and pollution of streams; and generally to restore the use and enjoyment of such lands. All the provisions of this Act shall be construed liberally for the accomplishment of its purposes.

SECTION 2. **Definitions.** Whenever used in this Act, unless a different meaning is plainly required by the context:

"Commissioner" means the commissioner of public lands of the Territory.

"Mineral" does not include sand, rock, gravel and similar materials commonly used in road construction.

"Operator" means an individual, firm or corporation engaged in strip mining operations.

"Pit" means a tract of land of which the surface soil has been removed or is being removed or is proposed to be removed for mining.

"Strip mining" means mining of mineral by uncovering therefrom the surface soil above mineral deposits and mining directly from the mineral exposed for the purpose of carrying on a business of mining or selling mineral removed by such process.

Definitions and rules of construction stated in chapter 1 of the Revised Laws of Hawaii 1955 apply.

### SECTION 3. **Powers of commissioners; advisory committee.**

(a) The commissioner shall grant and, for any cause specified in section 5, may refuse, modify, suspend, revoke or cancel permits in accordance with the provisions of paragraph (b) of section 8 and generally shall have full power and authority to carry out and administer the provisions of this Act. The commissioner may designate one or more employees in his department to act in his stead.

(b) The commissioner on his own motion whenever he has reason to believe cause therefor exists may, and upon the sworn complaint in writing of any person setting forth facts which, if proved, would constitute grounds for refusal, suspension, revocation or cancellation of a permit, shall investigate the acts or omissions of any person holding or claiming to hold a permit under the provisions of this Act or any acts or omissions of any person constituting a violation of the provisions of this Act.

(c) The commissioner may enter upon the lands of any operator at any time for the purpose of inspection to determine whether the provisions of this Act have been complied with. For such purpose the commissioner shall have access to all parts of the land upon which the pit is located and may use any right of way or easement available to the operator over any adjoining land.

(d) The provisions of this Act shall apply to the public lands of the Territory to the extent that they are not inconsistent with the provisions of the Organic Act or the laws of Hawaii relating to public lands. Nothing contained in this Act shall be construed to limit, restrict or otherwise affect the powers of the commissioner over the public lands of the Territory as provided by the Organic Act and the laws of Hawaii relating to public lands.

(e) Notwithstanding the provisions of any Act relating to forest reserves and water reserves, the provisions of this Act shall apply to mineral lands in such reserves. No Act hereafter approved shall be deemed to repeal any provision of this Act unless so specifically provided.

(f) The mineral resources advisory committee established by House Joint Resolution No. 33 of the Twenty-ninth Legislature, regular session, shall serve the commissioner in an advisory capacity in all matters pertaining to the enforcement of the provisions of this Act.

**SECTION 4. Prohibitions.** (a) It shall be unlawful for any person to engage in strip mining without first obtaining from the commissioner a permit so to do, in the form hereinafter provided.

(b) It shall be unlawful for any operator to cause or permit any

poisonous or noxious matter to be discharged into any public stream or shore waters in such quantity as to be injurious to animal, fish or vegetable life.

**SECTION 5. Application for permit; fee.** (a) Any operator desiring to engage in strip mining shall make written application to the commissioner for a permit. Application for such permit shall be made upon the form furnished by the commissioner, which form shall require a description of the pit with such particularity as the commissioner may require, the approximate number of acres of mineral land that will be mined annually, the approximate date upon which mining operations shall commence and such other information as the commissioner may require. Such application shall be accompanied by an annual fee determined by the number of acres to be stripped in one year, as follows: less than 10 acres, \$100; 10 to 24 acres, \$200; 25 to 49 acres, \$300; 50 to 99 acres, \$400; and 100 acres or more, \$500. Such application together with the proper fee shall also be accompanied by a bond meeting the requirements of section 6 of this Act. Upon receipt of such application, fee and bond, the commissioner shall issue a permit to the applicant which shall entitle him to engage thereafter in strip mining at the general location of the pit or pits described in the permit for one year. The commissioner shall refuse to issue a permit if the application is not in proper form or is not accompanied by the correct amount of the fee or if the bond does not meet the requirements of section 6.

(b) Each permit shall be renewed each year by the commissioner, upon receipt by him of the required annual fee, so long as the operator complies with the provisions of this Act. The permit shall remain in effect until suspended, revoked or cancelled by the commissioner for failure of the operator to comply with the requirements of section 7, or for violation by the operator of the provisions of section 4, or for failure of the operator to pay the proper annual renewal fee.

**SECTION 6. Bond.** Contemporaneously with and as a condition precedent to the issuance of the permit, the operator shall file with the commissioner a bond payable to the Territory, conditioned that the operator shall faithfully and fully perform all duties and requirements to be performed and observed by the operator as provided by section 7 and to carry out the plan of reclamation required thereunder. Such bond shall be signed by the operator as principal and by a surety company authorized to do business in the Territory. The penalty of such bond shall be in an amount fixed by the commissioner based on the reasonable cost of restoring and rehabilitating the land covered by the permit but not to exceed \$300 an acre of land proposed thereafter by the operator to be subjected to strip mining for the ensuing year. The penalty of the bond shall from time to time be increased or reduced by the commissioner pro tanto in accordance with the number of acres added to the land for strip mining operations or in accordance with the number of acres to which the bond is no longer operative because of the operator's withdrawal of acreage or by reason of his performance of his obligations subsequent to the issuance of the permit. Any operator may execute the bond without surety if he shall deposit with the commissioner cash in the amount of

the bond fixed by the commissioner as provided in this section covering the land proposed by him to be stripped in the ensuing year and the permit issued shall therefore be limited to the number of acres for which the deposit is made or may be increased later by the commissioner on receipt by him of additional deposits. Such deposits shall be retained by the commissioner as a guaranty by the operator for the faithful performance of his bond. Should the operator fail to carry out the requirements set forth in section 7 or to carry out the plan of reclamation, the commissioner may cause them to be carried out and may use the funds deposited or may proceed against the bond to pay therefor. The commissioner shall release any bond and shall repay any deposits no longer necessary to be maintained for the purposes of this Act, upon showing by the operator that the provisions of this Act have been complied with.

**SECTION 7. Reclamation.** (a) The operator shall submit to the commissioner in duplicate on or before September 1 annually, a map in form approved by the commissioner, setting forth such description as will identify the land from which the operator removed any mineral by the strip mining method during the preceding permit year, with a legend upon such map showing the number of acres affected to the extent that the topography has been disturbed by such mining operations. The accuracy of the acreage shown upon the map may be checked by the commissioner, and if found to be erroneous, it shall be corrected by the operator and a new map furnished as required by the commissioner.

(b) Within two years after the completion or abandonment of strip mining operations in any pit or within such additional time as may be approved by the commissioner, the operator shall reclaim the land affected by such operations pursuant to a plan approved by the commissioner. A pit shall be deemed abandoned if mining operations have been discontinued and have not been resumed on a substantial scale within six months after such discontinuance unless suspension of operations has been approved by the commissioner. The plan of reclamation shall require the operator to:

- (1) Strike off peaks and ridges and fill in deep depressions created or left by the mining operations and grade the surface of the pit to a contour which will minimize erosion and be suitable for planting as provided in this section.

- (2) Remove all debris and rubble.

- (3) Provide such drains, ditches, and outlets as may be necessary to prevent the accumulation of water in the pit and to remove water from the pit in such a way as to minimize erosion of the pit and the surrounding land.

- (4) Replace the top soil removed from the surface of the pit and furnish such additional soil as may be necessary for planting.

- (5) Provide reasonable means of access to the pit.

- (6) Plant and fertilize grasses, shrubs, trees and crops where revegetation is possible in the pit. If the pit is within a forest or water reserve, the operator shall plant suitable forest trees. If the pit is not in a forest or water reserve, the operator shall restore the land to the level of use and

productivity which existed immediately prior to the commencement of mining operations, **provided** that the operator may elect to put any such land to forest or agricultural use regardless of its prior use. If the land is to be restored for grazing, the operator shall plant grasses suitable for grazing. If the land is to be restored to agricultural use, the operator shall plant a suitable cover crop to restore productivity to the land. In all cases, the planting shall be carried on in such manner and to such extent as may be necessary to minimize erosion and to restore the land to the level of use and productivity provided for in this section.

(c) The operator shall submit such plan for reclamation to the commissioner as soon as practicable after the completion or abandonment of operations. If, in his judgment, the plan meets the requirements of this section, the commissioner shall approve it; if not, he shall notify the operator of the reasons for his disapproval in writing. The operator shall thereupon submit an amended plan. If the commissioner disapproves of the amended plan, the operator may appeal the action to the circuit court in accordance with the provisions of section 9; otherwise he shall submit another amended plan until approval is obtained.

(d) The operator shall commence work under the reclamation plan as soon as practicable after approval of the plan and shall prosecute the work with reasonable diligence until completion. The operator shall notify the commissioner of the completion of the plan of reclamation.

#### **SECTION 8. Termination, revocation of permit; release.**

(a) Any unexpired permit shall be effective only so long as the operator possesses the legal right and power by legal estate owned to strip mine from the land described in the permit. All authority of the commissioner to enforce the requirements prescribed in section 7 shall terminate within ten years after the end of the permit year in which strip mining was completed or abandoned upon the land unless before the end of said period he has served upon the operator written directions to comply therewith. The commissioner shall release from the effect of this statute, either by reason of compliance or limitation of time, all or any part of the land affected by this Act by filing in the bureau of conveyances of the Territory, or with the assistant registrar of the land court if title to the land is registered, a written release in form prepared by the commissioner.

(b) No permit shall be refused, modified, suspended, cancelled or revoked by the commissioner until after a hearing on written charges has been had before the commissioner after not less than ten days' written notice, fixing date and place of such hearing, has been given to the operator.

**SECTION 9. Appeal.** Any operator aggrieved by any decision, order or action of the commissioner refusing, modifying, suspending, cancelling or revoking a permit or disapproving an amended plan of reclamation may appeal from such decision, order or action to the circuit judge at chambers of the circuit court of the circuit in which is located any part of the land described in the permit. The appeal shall be governed by the provisions of Rule 72 of the Hawaii Rules of Civil Procedure. The

appellant shall file a bond with the clerk of the circuit court to which the appeal is taken, in such amount and with such surety or sureties as the clerk may fix and prescribe, conditioned to pay all costs if such appeal be decided adversely to the appellant. On motion of the commissioner the court may require the penalty of the bond to be increased to such amount and to be so conditioned that the operator filing such appeal shall be bound to perform all requirements of this Act. The court shall have the power to reverse, affirm or modify in whole or part, the decision, order or action appealed from.

**SECTION 10. Penalty; injunction.** Any person violating any provision of section 4 shall forfeit to the Territory not more than \$5,000 for every violation, to be recovered by action brought in the name of the Territory by the commissioner, and may be enjoined by the circuit court from continuing such violation. The penalty and remedy provided by this section shall be in addition to any criminal or civil penalty provided by any other law.

**SECTION 11. Funds.** All fees and fines collected under this Act shall be paid into the treasury of the Territory as general realizations. All moneys forfeited under any bond or deposit shall be held in a special fund to be expended by the commissioner for the purpose mentioned in section 6.

**SECTION 12. Effect of invalidity.** If any provision or application of this Act is held invalid, such invalidity shall not affect other provisions or application of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable.

**SECTION 13. Effective date.** This Act shall take effect upon its approval.

(Approved May 27, 1957.) **S.B. 588, Act 161.**

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## ACT 162

An Act to Amend Section 21-6 of the Revised Laws of Hawaii 1955, Relating to Forfeiture of Hunting and Fishing Gear Used or Possessed in Violation of Fish and Game Laws.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Section 21-6** of the Revised Laws of Hawaii 1955 is hereby amended by substituting the word "may" for the word "shall" appearing in the ninth line thereof.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 28, 1957.) **S.B. 127, Act 162.**



**ACT 163**

An Act to Amend Chapter 143 of the Revised Laws of Hawaii 1955, Relating to the Powers of the Urban Redevelopment Agency and to the Urban Redevelopment Fund.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The first sentence of **section 143-6(d)** of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

“(d) To make preliminary surveys, studies, and plans to identify redevelopment areas **provided** that the studies and initial determination of what areas are blighted, within the meaning of this Act, shall be made exclusively by the planning commission, and to make redevelopment plans for any such areas, which plans shall be in conformity with the master plan for the development of the locality, and each such plan shall show the outline of the area, character of existing development, proposed use of land, general character of new buildings and other general details of redevelopment, as well as the preliminary estimated cost thereof.”

SECTION 2. **Section 143-15** of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto the following paragraph:

“The Agency may submit in its budget for Redevelopment Agency Fund estimates of amount required for administrative expenses and other costs of operation of the Office of Urban Renewal Coordinator and the Central Relocation Office under the jurisdiction of the said Urban Renewal Coordinator **provided** however the amount to be appropriated for such purpose for any one year shall not exceed the sum of \$100,000 and **provided further** that said estimates for the Office of Urban Renewal Coordinator and the said Central Relocation Office shall have first been approved by the Mayor or Chairman of the Board and the Board.”

SECTION 3. This Act shall take effect upon its approval.

(Approved May 28, 1957.) **H.B. 1165, Act 163.**

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**ACT 164**

An Act to Amend Section 159-101 of the Revised Laws of Hawaii 1955, Relating to Intoxicating Liquor and Providing a Penalty for Purchasing Liquor for Minors.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 159-101 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

“**Sec. 159-101. Other offenses; penalty.** If any person violates any provision of this chapter or any rule or regulation in effect by authority of this chapter, whether in connection therewith a penalty is referred to or not, for which violation no penalty is spe-

cifically prescribed, or if a minor purchases any intoxicating liquor, or if any adult shall purchase intoxicating liquor for the consumption or use of any minor, he shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500 or by imprisonment not exceeding six months or by both fine and imprisonment."

**SECTION 2.** This Act shall take effect upon its approval ; **provided**, that this Act shall not affect the liability of any person to prosecution and punishment for any criminal offense committed prior to said effective date and any such offense may be prosecuted and punished the same as if this Act had not been acted.

(Approved May 28, 1957.) **S.B. 63, Act 164.**

### ACT 165

An Act to Provide for the Burial of Indigent Dead.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 144-33 of the Revised Laws of Hawaii 1955 is hereby amended by adding at the end thereof a new subsection to be appropriately numbered and to read as follows:

"([e-1]) **Indigent dead.** To make proper provision for the indigent dead. The term 'indigent' means a person without adequate and proper means of subsistence, for the support of whom no other person or agency is liable and responsible."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 28, 1957.) **S.B. 471, Act 165.**

### ACT 166

An Act to Amend Section 178-66 and Section 178-86 of the Revised Laws of Hawaii 1955, Relating to Loans and Investments of Banks.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** **Section 178-66** of the Revised Laws of Hawaii 1955 is hereby amended by deleting from the first sentence thereof the words "sixty per cent" and inserting in place thereof the words "seventy-five per cent."

**SECTION 2.** Paragraph (e) of **section 178-86** of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"(e) Notes or bonds secured by first lien upon improved real estate and improvements thereon in the Territory, **provided**, that in each case the amount of such obligation shall not exceed seventy-five per cent of the appraised market value of the security over and above all taxes due and bonded indebtedness due. The

aggregate of such investments shall not exceed seventy-five per cent of the total savings deposits of such bank. A leasehold interest in real property and the improvements thereon shall be considered real estate for the purposes of this paragraph, if, at the time of the making of such investment, the expiration date of the lease is at least two years beyond the maturity date of the note or bond secured by lien thereon."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 28, 1957.) **S.B. 750, Act 166.**

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### ACT 167

An Act Relating to Standards of Weights and Measures and Amending Chapter 162 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 162 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new section to be appropriately numbered and to read as follows:

"[Sec. 162-7.5]. **Standards.** The standards of weights and measures shall be those adopted and used by the United States."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 28, 1957.) **S.B. 811, Act 167.**

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### ACT 168

An Act Relating to Elections, Amending Section 11-47 of the Revised Laws of Hawaii 1955 and Adding a New Section Thereto.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 11-47 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"**Sec. 11-47. Admission within polling place; penalty.** The inspectors shall, prior to opening the polls, set apart an area of three hundred feet in radius around the polling place (excepting private residences, buildings, and other private establishments falling within such radius) to prevent interference with the conduct of the election, and no person, other than the inspectors, the candidates and such voters as are for the time being actually engaged in voting or going to and returning therefrom, shall be permitted within the area so set apart during the time appointed for voting, except that public sidewalks, alleys, roads, streets and highways falling within such three hundred foot radius shall be open to persons and vehicles passing through on such alleys, roads, streets and highways. Any other person who remains or loiters within the area so set apart during the time appointed for

voting shall be fined not more than \$500 or imprisoned not more than six months, or both; **provided**, that in the event a voter is manifestly physically disabled, such voter may be assisted by anyone through the area so set apart.

This Section shall not be construed as an abridgment of an elector's privilege from arrest on election day during his attendance at election and in going to and returning therefrom, as set forth in Sec. 57 of the Organic Act."

SECTION 2. A new section is hereby added to the Revised Laws of Hawaii 1955 to be numbered section 11-198 and to read as follows:

**"Sec. 11-198. Campaign activities on election days prohibited.** No person, including candidates, shall carry on any campaign activities within the area described in Sec. 11-47 on the day on which a general, primary or special election is being held for the purpose of influencing votes. Campaign activities shall include but not be restricted to the following: (a) the distribution, circulation, posting or staking of campaign cards, pamphlets and other literature; (b) the use of public address systems and other public communication media; (c) the use of motor caravans or parades; and (d) the use of entertainment troupes or the free distribution of goods and services.

The 'day of election' as used in this section shall commence at midnight of the day before the polls are open and shall end with the closing of the polls. Any person violating the provisions of this section shall be fined not more than \$500 or imprisoned not more than six months, or both."

SECTION 3. This Act shall take effect upon its approval.

(Approved May 28, 1957.) **H.B. 192, Act 168.**

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## ACT 169

An Act Relating to the Preservation of Historical Sites, The Duties of the Territorial Tax Commissioner in Connection Therewith, and Amending Section 14-8, Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 14-8, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Sec. 14-8. Powers and Duties.** The commission shall locate, identify, and preserve in suitable records information regarding heiaus, ancient burial places, and sites of historical interest. Such information shall be submitted to the territorial tax commissioner, who shall clearly designate on all tax maps of the Territory the location of all heiaus, ancient burial places, and sites of historical interest. The commission shall cooperate with other territorial agencies and owners of private historical sites.

Before any public construction or improvement of any nature

whatsoever is undertaken by the Territory, the City and County of Honolulu or any of the counties, or any governmental agency or officer, the head of such agency or such officer shall first examine the current tax map of the area to be affected by such public construction or improvement to determine whether any heiaus, ancient burial places, or sites of historical interest are designated on such map. If so designated, the proposed public construction or improvement shall not be commenced, or, in the event it has already begun, continued, until the head of such agency or such officer shall have advised the commission on historical sites of the proposed public construction or improvement and shall have secured the concurrence of the commission or, as hereafter provided, shall have secured the written approval of the governor.

If the concurrence of the commission is not obtained within thirty days after the filing of a request therefor with the commission by, or after the filing of a notice of objections by the commission with, the agency or officer seeking to proceed with any project, such agency or officer may apply to the governor for permission to proceed notwithstanding the non-concurrence of the commission, and the governor may take such actions as he deems best in overruling or sustaining the commission."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 28, 1957.) H.B. 344, Act 169.

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### ACT 170

An Act Relating to the Salaries of Certain Territorial and County Officers, Prescribing Restrictions as to Outside Employment or Professional Practice by Such Officers, Amending Section 4A-1, 146-2, 147-1, 148-1, 149-54 and 149-55 of the Revised Laws of Hawaii 1955, and Making an Appropriation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 4A-1 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"**Sec. 4A-1. Salaries fixed.** The salaries of the following officers are hereby fixed at the following annual rates:

	Per Annum
Director of aeronautics	\$12,600
President, board of commissioners of agriculture and forestry	12,500
Attorney general	14,000
Assistant attorney general	12,576
Auditor	12,750
Deputy auditor	11,076

Director of bureau of the budget	14,000
President, board of health	14,000
Director of public health	12,576
Director of institutions	13,000
Director of labor and industrial relations	11,580
Superintendent of public instruction	13,500
Commissioner of public lands	12,180
Director of public welfare	12,000
Superintendent of public works	13,500
Surveyor	12,180
Tax commissioner	12,500
Treasurer	12,500

The positions the salaries of which are fixed by this section are exempt from the provisions of chapter 4, except as provided by section 93-90 as to the director of labor and industrial relations."

SECTION 2. Section 31-3 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"**Sec. 31-3. Salary of high sheriff.** The high sheriff shall receive a salary of \$4,200 annually, payable in equal monthly installments, and such bonus or other compensation as may be provided by law."

SECTION 3. (a) Sections 146-2, 147-1 and 148-1 of the Revised Laws of Hawaii 1955 are hereby amended so as to provide the following schedule of salaries for the officers of the counties of Hawaii, Kauai and Maui, respectively:

	Per Annum
Chairman and executive officer	\$11,000
Members of board of supervisors (each)	3,000
County attorney	10,000
Auditor	9,500
Treasurer	9,000
Clerk	9,000
Chief of Police	9,800
Fire Chief	8,000

(b) Section 149-54 of the Revised Laws of Hawaii 1955 is hereby amended to provide the following schedule of salaries for the elective officers of the city and county of Honolulu:

	Per Annum
Mayor	\$ 16,000
Members of board of supervisors (each)	4,200
Sheriff	10,000
City and county clerk	12,250
Auditor	12,250
Treasurer	12,250

(c) Section 149-55 of the Revised Laws of Hawaii 1955 is hereby amended to provide the following schedule of salaries for the appointive officers of the city and county of Honolulu:

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	Per Annum
City and county attorney	\$ 13,000
Public prosecutor	13,000
Controller	13,000
Chief of police	12,500
Fire chief	12,000

SECTION 4. Notwithstanding any other law to the contrary, the salary of any first deputy or first assistant to the head of any department of the territorial or county governments shall not exceed a sum equal to ninety per cent of the salary of such department head. The salary of any such first deputy or first assistant, which shall exceed such limitation as of the effective date of this Act, is hereby reduced to comply with the provisions of this Section 4.

SECTION 5. No full-time officer of the Territory or of the counties or city and county may, during his term of office, engage in other gainful occupational employment or the private practice of any profession.

SECTION 6. There is hereby appropriated from the general revenues of the Territory, not otherwise appropriated, the sum of \$54,000 or so much thereof as may be necessary, to supplement department appropriations of the territorial government so as to effectuate the purposes of this Act.

SECTION 7. This Act shall take effect on July 1, 1957.

(Approved May 28, 1957.) H.B. 702, Act 170.

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ACT 171

An Act Amending Section 21-158 of the Revised Laws of Hawaii, 1955  
Relating to Wild Deer.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 21-158 of the Revised Laws of Hawaii 1955 is amended by deleting the words and comma "Except for the island of Molokai," and by substituting "The" for "the" immediately thereafter.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 28, 1957.) H.B. 816, Act 171.

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ACT 172

An Act to Amend Part V, Chapter 22, of the Revised Laws of Hawaii  
1955, Relating to Grading of Beef, Pork, Mutton and Lamb Carcasses,  
And Authorizing the Collection of Fees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 22 of the Revised Laws of Hawaii 1955 is hereby amended as follows:

(a) By amending section 22-90 to read as follows:

**"Sec. 22-90. Standard grades; rules and regulations.** The board of commissioners of agriculture and forestry shall, by January 1, 1958, adopt standard grades for beef, pork, mutton and lamb carcasses, and make rules and regulations relating thereto, subject to the approval of the governor, which shall have the force and effect of law, and shall be applicable only to carcasses previously inspected and passed for wholesomeness. Such rules and regulations may include provisions for the enforcement thereof, including the definitions of prohibited acts and the penalties therefor, and may fix reasonable fees for the grading services, furnished under this part. Such fees shall be on a uniform basis and in an amount reasonably necessary to cover the cost of inspection and the administration of this part, but not to exceed the maximum fees charged by the federal grading service."

(b) By amending section 22-91 to read as follows:

**"Sec. 22-91. Federal standards.** The board may adopt the federal grade standards for the grading of beef, pork, mutton and lamb."

(c) By adding a new section to read as follows:

**"Sec. 22-92. Cooperating with federal authority.** The board may enter into a cooperative agreement with the meat grading service of the United States department of agriculture and may, to the extent funds are available in the division of animal industry special fund, pay the salaries, or portions thereof, of federal employees providing services under such agreement."

(d) By renumbering sections 22-92, 22-93, and 22-94 as sections 22-93, 22-94, and 22-95, respectively.

(e) By amending section 22-93, as herein amended, to read as follows:

**"Sec. 22-93. Grading voluntary.** The grading of beef, pork, mutton and lamb carcasses by trained graders cooperating with or employed by the board of commissioners of agriculture and forestry shall be voluntary with the producer or his agent."

(f) By adding a new section to read as follows:

**"Sec. 22-96. Disposition of fees.** All fees collected under this part shall be paid into a special fund in the division of animal industry and shall be expended for the purposes of this part."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 28, 1957.) H.B. 1219, Act 172.



**ACT 173**

An Act to Provide for Natural Guardians for Incompetent Adult Persons, and Amending Chapter 338 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 338 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new section to be appropriately numbered and to read as follows:

**"Sec. [338-9.5]. The father and mother of an incompetent adult person are jointly and severally the natural guardians of his person and property.** They shall have equal powers and duties with respect to him and neither shall have any right superior to that of the other concerning his custody or control or any other matter affecting him; **provided,** that if either parent dies or abandons the family or is incapable for any reason to act as guardian, the guardianship devolves upon the other parent, and that when the parents live apart, the court may award the guardianship to either of them, having special regard to the interests of the incompetent adult person.

The term 'incompetent adult person', as used herein, is restricted to only such adult person who is determined to be totally and permanently disabled by the aid-to-disabled review committee of the department of public welfare."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 29, 1957.) **S.B. 472, Act 173.**

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**ACT 174**

An Act Amending Section 108-20 of the Revised Laws of Hawaii 1955 Relating to Assistance From the Department of Public Welfare and Fraud in Receiving Assistance.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 108-20** of the Revised Laws of Hawaii 1955 is hereby amended by amending the second paragraph to read as follows:

"If, at any time while the recipient of public assistance is receiving such assistance, his living requirements are reduced and he fails to report such reduction within 30 days from the date of such reduction to the department, or he acquires from any source real property, funds, income, or other resources and fails to report the amount of same together with the source of such resources to the department within 30 days of receipt of same, or prior to spending or otherwise disposing of all or any portion of the same, he shall be deemed guilty of fraud and be subject to the penalties provided by this section and may forfeit all right to such assistance, which the department may cancel for a period of at least six

months following the acquisition of such property, funds, income, or other resources or the discovery thereof by the department, whichever is later in time."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 29, 1957.) **S.B. 475, Act 174.**

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### **ACT 175**

An Act to Amend Section 136-1 of the Revised Laws of Hawaii 1955, Relating to the Bank Examiner or Deputy ; Powers.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 136-1** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the words "six months" appearing in line three thereof and by substituting therefor the word "year".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 29, 1957.) **S.B. 553, Act 175.**

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### **ACT 176**

An Act Making It a Misdemeanor to Record Telephonic Conversations and Amending Title 31 of the Revised Laws of Hawaii 1955 by Adding a New Chapter Thereto.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Title 31 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new chapter to be appropriately numbered and to read as follows:

"CHAPTER [309A]. TELEPHONE CONVERSATIONS.

**Sec. [309A-1]. Recording telephonic conversations; misdemeanor.** Any person other than a telephone company operating in its regular course of business who records a telephone conversation being held by other parties without first informing such other parties that their conversation is being recorded and identifying the person who is recording the conversation, shall be guilty of a misdemeanor."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 29, 1957.) **S.B. 587, Act 176.**

## ACT 177

An Act Amending Section 324-23 of the Revised Laws of Hawaii 1955, Relating to Service of Process in Annulment, Divorce, and Separation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 324-23 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 324-23. Personal service; enforcement of alimony.** No person shall be entitled to an annulment, a divorce or a separation unless the libellee or defendant, except as hereinafter otherwise provided, shall have been served personally with process if within the Territory, or shall have entered an appearance in the case; **provided,** however, that in any proceeding under this chapter for an annulment, a divorce or a separation, if it shall appear in the libel or by return of the summons or by affidavit or otherwise to the satisfaction of the judge that the libellee or defendant is living at the time on any island of the Territory on which there is no resident officer legally authorized to serve such process, or is without the Territory, the judge may authorize notice of the pendency of the libel and of the time and place of hearing to be given to the libellee or defendant personally by such person and in such manner as he shall designate, or in lieu thereof, the judge may authorize service by registered mail with request for a return receipt, which service, evidenced by such receipt signed by the libellee or defendant and returned to the clerk of the court, shall be regarded as equivalent to personal service; or, if it shall further appear to his satisfaction by affidavit or otherwise, that the libellee has refused to accept notice sent by registered mail, or is concealing himself, or evading service, or that libellant does not know the address or residence of the libellee or defendant, and has not been able to ascertain either after reasonable and due inquiry and search for fifteen days either before or after the filing of the libel, the judge may authorize notice to be given to the libellee or defendant by publication thereof at least once in each of three successive weeks in a newspaper or newspapers suitable for the advertisement of notices of judicial proceedings, published in the Territory, and may hear and determine the case at or after the time specified in the notice, which shall not be less than thirty days after the giving of personal notice, or the last publication of the published notice, as the case may be. All property within the Territory of the libellee or defendant may by order of the court, be subjected to the enforcement of any judgment or order of the court obtaining jurisdiction by the method of service herein provided with respect to any allowance provided for in section 324-4."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 29, 1957.) S.B. 625, Act 177.

**ACT 178**

An Act Authorizing the Treasurer of the Territory of Hawaii to Enable the Territory of Hawaii to Participate and Qualify for Certain Benefits Under the "Federal Flood Insurance Act of 1956", Public Law 1016, 84th Congress, 2d Session, and the Various Counties to Make Applications for Such Flood Insurance Coverage.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Purpose.** The legislature finds that in the case of natural disasters, including flood, tidal wave, wave wash, or other abnormally high tidal water, deluge, or the water component of other severe storm and surface landslide due to excess moisture, insurance protection against individuals and public loss is not generally available through private or public sources. Since, any preventive and protective means and structures against the effects of these disasters can never wholly anticipate the destructive aspects of these forces, and such disasters cause widespread distress and hardship adversely affecting the general welfare, the legislature finds that benefits of the federal flood insurance program are a necessary adjunct of preventive and protective means and structures. Therefore, it is the purpose of this Act to authorize participation by the Territory and the various counties in the federal flood insurance program and the benefits accruing thereunder.

**SECTION 2. Authorization to treasurer.** The treasurer is authorized to enable the Territory to qualify and participate in the federal flood insurance program, pursuant to any applicable provisions of said Public Law 1016. He shall be vested with such functions, powers, and duties which are necessary to enable the Territory to qualify and participate in such flood insurance program.

**SECTION 3. Authorization to the various counties.** The Mayor or executive officer and the board of supervisors of the various counties are authorized to participate and apply on behalf of their respective counties for flood insurance coverage pursuant to any applicable provisions of said Public Law 1016. They shall be vested with such functions, powers and duties which are necessary to enable their respective counties to qualify, participate, and apply for such flood insurance coverage.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved May 29, 1957.) **S.B. 768, Act 178.**

**ACT 179**

An Act to Amend Section 153-12 of the Revised Laws of Hawaii 1955, Relating to Contracts, Bids and Bonds, by Amending the Third Sentence Thereof Relating to the Amount of Deposit Accompanying the Contract Bid.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The third sentence of **section 153-12** of the Revised Laws of 1955 is hereby amended to read as follows:

"All bids shall be accompanied by a deposit of legal tender or by a certificate of deposit or certified check on a bank doing business within the Territory or a sufficient surety bond payable to and in favor of the city and county for or in a sum equal to five per cent of the amount bid; **provided** that when the bid exceeds \$50,000, the aforesaid deposit, certificate, check or bond shall be for \$2500 plus two per cent of the amount in excess of \$50,000 which shall be forfeited to the city and county, unless the successful bidder shall sign the contract and furnish an approved bond within the time specified by the board."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 29, 1957.) **S.B. 912, Act 179.**

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**ACT 180**

An Act to Amend Sections 5-13 and 30-10 of the Revised Laws of Hawaii 1955 to Restrict Certain Public Officers and Employees From Acting as Master of Accounts.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5-13 of the Revised Laws of Hawaii 1955 is amended to read as follows:

**"Sec. 5-13. Certain public officers prohibited from receiving certain masterships and master's fees; forfeiture.** No person holding any salaried office or employment in the executive or judicial branches of the government of the Territory or any county thereof, or holding any executive or judicial office or employment any part of the compensation for which is paid by the Territory or any county, shall be appointed to serve as master to examine, pass or report upon any account filed in any court of the Territory by any guardian, trustee, executor or administrator except where the estate concerned be insolvent or there be insufficient funds therein to pay a reasonable master's fee. In that event, the master shall not receive, directly or indirectly, any fee or other remuneration for services rendered as master to examine, pass or report upon any account filed in any court of the Territory by any guardian, trustee, executor or administrator. Any such person receiving or accepting any such fee or remuneration shall by virtue of such

acceptance be deemed to have released and forfeited all claim and right thereafter to any compensation payable by the Territory or county by virtue of the office or employment, and in addition, if he is holding an office or employment, subject to the power of the legislature of the Territory to provide for forfeiture thereof as herein provided, shall be deemed to have forfeited and been ipso facto discharged from his office or employment. In any event, upon acceptance of any such fee or remuneration, the auditor of the Territory or any county is hereby prohibited from issuing any warrant to such person except for services rendered prior to such forfeiture. This section shall not apply to officers whose only compensation from the government is paid pursuant to any territorial statute upon a per diem basis or upon a fee basis, or to officers or employees appointed or employed by contract to render a temporary professional service. Traveling or other expenses paid or payable by the Territory or any county to any officer or employee shall not be deemed to be compensation."

SECTION 2. Section 30-10 of the Revised Laws of Hawaii 1955 is amended by deleting the phrase appearing in lines 7, 8, and 9 thereof which reads:

"that the attorney general, his assistants and deputies shall be entitled to accept fees or other compensation in connection with masterships; and provided further"

SECTION 3. This Act shall take effect upon its approval.

(Approved May 29, 1957.) **H.B. 52, Act 180.**

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### ACT 181

An Act to Amend Section 216-3, Revised Laws of Hawaii 1955, Relating to the Compensation of Certain District Magistrates.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Paragraph four of **section 216-3**, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"Any second or third magistrate so serving or any magistrate so serving by designation of the chief justice shall receive as compensation for his services for the duration of such disqualification, absence, illness, or vacancy a per diem compensation for the days on which actual service is rendered based on the monthly rate of compensation paid to the magistrate of the district in which the service is performed. For the purpose of determining per diem compensation in this section, a month shall be deemed to consist of thirty days.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 29, 1957.) **H.B. 57, Act 181.**

**ACT 182**

An Act to Create and Establish a Territorial Agency for Surplus Property, Amending Chapter 12 of the Revised Laws of Hawaii 1955, Relating to Federal Aid, and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Chapter 12 of the Revised Laws of Hawaii 1955 is hereby amended so as to renumber the present **section 12-10** as **section 12-13**, and so as to delete therefrom the present **sections 12-7, 12-8 and 12-9**, and insert in place of the same and in addition thereto the following **sections 12-7 to 12-12** inclusive:

**"Sec. 12-7. Territorial agency for surplus property.** There is hereby created and established a territorial agency for surplus property hereafter called the 'agency', which shall be administered by a surplus property director and be subject to the direction of the director of the bureau of the budget.

The director of the bureau of the budget shall appoint and prescribe the duties of a surplus property director and other personnel pursuant to the provisions of chapters 3 and 4 of the Revised Laws of Hawaii 1955.

**Sec. 12-8. Authority and duties of the agency.** The agency may :

(a) Acquire from the United States under and in conformance with the provisions of section 203 (j) of the Federal Property and Administrative Services Act of 1949, as amended, hereinafter referred to as the 'Federal Act', such personal property under the control of any department or agency of the United States as may be usable and necessary for purposes of education, public health or civil defense, including research for any such purpose, and for such other purposes as may now or hereafter be authorized by federal law; warehouse such property; and distribute such property within the Territory to the following agencies, hereafter referred to as 'donee agencies':

(1) tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, and universities within the Territory of Hawaii, and to non-profit medical institutions, hospitals, clinics, health centers, schools, colleges and universities which are exempt from taxation under section 501 (c) (3) of the United States Internal Revenue Code of 1954;

(2) civil defense organizations of the Territory, or any of its political subdivisions; and

(3) such other types of institutions or activities as may now be or hereafter become eligible under federal law to acquire such property;

(b) Receive applications from eligible health and educational institutions for the acquisition of federal surplus real property, investigate, review, make recommendations and

otherwise assist, supervise and direct the processing of such applications for acquisition of real and related personal property of the United States under section 203 (k) of the Federal Act;

(c) adopt, amend, or rescind such rules and regulations and prescribe such requirements as it may deem necessary and take such other action to assure maximum utilization by applicants of benefits hereunder;

(d) appoint advisory boards or committees;

(e) take such action including making certifications, expenditures, contracts, agreements and other undertakings, necessary in connection with the disposal of real and personal property hereunder;

(f) act as clearing house of information for the public and private non-profit institutions, organizations and agencies referred to in subparagraph (a) of section 12-8 of this chapter and other institutions eligible to acquire federal surplus real property, locate both real and personal property available for acquisition from the United States, ascertain the terms and conditions under which such property may be obtained, receive requests from the above mentioned institutions, organizations and agencies and transmit to them all available information in reference to such property, and aid and assist such institutions, organizations and agencies in every way possible in the consummation of acquisitions or transactions hereunder;

(g) and shall cooperate to the fullest extent, consistent with the provisions of the Federal Act, with the departments or agencies of the United States, shall file a territorial plan of operation, operate in accordance therewith, and take such action as may be necessary to meet the minimum standards prescribed in the Federal Act, shall make such reports as the United States may from time to time require, and shall comply with the laws, rules and regulations of the United States governing the allocation, transfer, use or accounting for property donated or to be donated to the Territory.

**Sec. 12-9. Director of the bureau of the budget.** The director of the bureau of the budget may:

(a) Delegate to any employee such power and authority as he may deem reasonable and proper for the effective administration of this chapter; and

(b) bond any employee of the agency handling money, signing checks, or receiving or distributing property from the United States under authority of this chapter.

**Sec. 12-10. Authorized donee representatives.** Any provision of law to the contrary notwithstanding, the governing board, or in case there be none the executive head, of any territorial department, instrumentality, or agency, or of any city, county, city and county,



school district or other political subdivision may by order or resolution confer upon any officer or employee thereof continuing authority from time to time to secure the transfer to it of surplus property under this Act through the territorial agency for surplus property under the provisions of section 203 (j) of the Federal Property and Administrative Services Act of 1949, as amended, and to obligate the Territory or political subdivision and its funds to the extent necessary to comply with the terms and conditions of such transfers. The authority conferred upon any such officer or employee by any such order or resolution shall remain in effect unless and until the order or resolution is duly revoked and written notice of such revocation shall have been received by the territorial agency for surplus property.

**Sec. 12-11. Transfer charges.** Any charges or fees assessed by the agency shall be limited to those reasonably related to the costs of care and handling in respect to the acquisition, receipt, warehousing, distribution or transfer by the agency, and, in the case of real property, such charges and fees shall be limited to the reasonable administrative costs of the agency incurred in effecting transfer.

**Sec. 12-12. Revolving Fund.** There is hereby created in the territorial treasury a fund to be known as the surplus federal property revolving fund, which shall be maintained in an amount adequate to defray the costs of procuring, storing, handling and disposing of surplus property donated to the Territory under the provision of any federal act making surplus federal property available."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 29, 1957.) H.B. 681, Act 182.

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### ACT 183

An Act Relating to Distributions of Assets of Corporations Organized to Provide Housing for Rent Pursuant to Regulations of the Federal Housing Commissioner Under the Provisions of Title VIII of the National Housing Act as Amended, and Amending Section 172-110 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 172-110** of the Revised Laws of Hawaii 1955, is hereby amended by adding at the end thereof the following:

"Nothing in this chapter shall be deemed to prohibit the distribution of assets to stockholders permitted or authorized by the Federal Housing Commissioner by any corporation organized for the purpose of providing housing for rent pursuant to regulations of the Federal Housing Commissioner under the provisions of Title VIII of the National Housing Act, as amended, where the

principal assets of said corporation shall consist of real property belonging to the United States and leased to said corporation pursuant to Title VIII of the National Housing Act as amended or supplemented from time to time."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 29, 1957.) **H.B. 802, Act 183.**

### ACT 184

An Act to Repeal Act 248 of the Session Laws of Hawaii 1953, Relating to Authority to Construct, Operate and Lease Storage Facilities for Feedstuffs and Foodstuffs by the Board of Harbor Commissioners by the Issuance of Revenue Bonds.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Act 248** of the Session Laws of Hawaii 1953 is hereby repealed.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 29, 1957.) **S.B. 340, Act 184.**

### ACT 185

An Act Relating to Territorial Tax Liens.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 115, Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new section to be numbered and to read as follows:

**"Sec. 115-37.5. Tax debt due the Territory; lien.** (a) Within the meaning of this section:

(1) The terms 'mortgagee', 'pledgee', and 'purchaser' do not include any person to whom property or an interest in property is conveyed (i) as security for or in satisfaction of an antecedent or pre-existing debt of a debtor who is insolvent within the meaning of the Bankruptcy Act, or (ii) as trustee, assignee or agent for the benefit of one or more creditors, other than mortgage bondholders.

(2) The term 'motor vehicle' means any self-propelled vehicle to be operated on the public highways.

(3) The interest of a party, if required to be recorded or entered of record in any public office in order to be valid against subsequent purchasers, does not arise prior to the time of such recording or entry of record.

(4) An employer or other person who is required by any tax law to withhold tax at the source, or to collect a tax, and who is

made liable for the tax if he does not fulfill his duties in that regard, shall be deemed a person liable for the tax.

(b) Any territorial tax which is due and unpaid is a debt due the Territory and constitutes a lien in favor of the Territory upon all property and rights to property, whether real or personal, belonging to any person liable for the tax. The lien for the tax, including penalties and interest thereon, arises at the time the tax is assessed, or at the time a return thereof is filed, or at the time of filing by the tax commissioner of the certificate provided for by subsection (f) whichever first occurs. From and after the time the lien arises it is a paramount lien upon such property and rights to property against all parties, whether their interest arose before or after that time, except as otherwise provided in this section.

(c) The lien imposed by subsection (b) is not valid as against: (i) a mortgagee or purchaser of real property, or the lien of a judgment creditor upon real property, whose interest arose prior to the filing by the tax commissioner of the certificate provided for by subsection (f); (ii) a mortgagee or purchaser of a motor vehicle who becomes the legal owner or owner at a time when the tax lien and encumbrance record provided for by section 160-6 does not show the lien.

(d) As to tangible personal property, possession of which is held by a person liable for tax for the purpose of sale to the public in the ordinary course of said person's business, the lien imposed by subsection (b) is extinguished as to any such property sold in the ordinary course of such business by or under the direction of said person to any purchaser for valuable consideration. As to securities, negotiable instruments and money, the lien imposed by subsection (b): (i) is extinguished as to such property upon passage of title to a person without notice or knowledge of the existence of the lien, for an adequate and full consideration in money or money's worth; (ii) is not valid as against a mortgagee or pledgee for an adequate and full consideration in money or money's worth, who is located outside the Territory and takes possession of such property, if at the time of taking possession of the property the mortgagee or pledgee is without notice or knowledge of the existence of the lien. The mere filing of the certificate provided for by subsection (f) does not constitute notice for the purposes of this subsection.

(e) Subject to the provisions of this subsection, the lien imposed by subsection (b) is not valid as against a mortgagee, pledgee, or purchaser who gives notice to the tax commissioner on a form prescribed by him of the mortgage, pledge or purchase made or about to be made, with a description of the property encumbered or conveyed or proposed to be encumbered or conveyed thereby, and whose interest in the property arises prior to the filing by the tax commissioner of the certificate provided for by subsection (f) or within ten days after such filing. If such notice is given the lien imposed by subsection (b) is valid against the

party giving the notice, as to any taxes set forth in a certificate filed as provided in subsection (f) within the period of fifteen days after the notice. The tax commissioner may waive all or any part of the period herein allowed.

(f) The tax commissioner may file in the bureau of conveyances at Honolulu, or in respect of a lien on a motor vehicle with the county treasurer, a certificate setting forth the amount of taxes due and unpaid, which have been returned, assessed, or as to which a notice of proposed assessment has issued. The certificate shall identify the tax or taxes involved. The certificate shall include such further information, if any, as may be required by chapter 342 to procure a lien on registered land. The filing of the certificate has the effect set forth in this section, but nothing in this section shall be deemed to require that a certificate filed by the tax commissioner must include the amount of any penalty or interest, in order to protect the lien therefor. The certificate, if filed with the county treasurer, shall be entered of record as provided by law, and if filed in the bureau of conveyances at Honolulu shall be recorded in a book provided for the purpose. Any cost incurred in the filing of the certificate shall be a part of the lien for the tax therein set forth.

(g) The tax commissioner may issue a certificate of discharge of any part of the property subject to the lien imposed by this section, upon payment in partial satisfaction of such lien, of an amount not less than the value as determined by the tax commissioner of the lien on the part to be so discharged, or if the tax commissioner determines that such lien on the part to be discharged has no value. Any such discharge so issued shall be conclusive evidence of the discharge of said lien as therein provided.

(h) The lien imposed by subsection (b) may be foreclosed in a court proceeding or by distraint under section 115-30.

(i) This section shall not apply to a tax levied by a chapter which contains a specific provision for a lien for the tax levied by such chapter, any provision in this section to the contrary notwithstanding."

**SECTION 2. Sections 117-38, 117-39, 119-17, 120-17, and 121-39 of the Revised Laws of Hawaii 1955 are hereby repealed.**

**Section 120-7** of the Revised Laws of Hawaii 1955 is amended by deleting therefrom the words "which amount shall (whether or not tax withholdings constituting trust funds have been commingled with said employer's assets) form a lien on the employer's entire assets, having priority over all other claims of any person.", and by changing to a period the comma which precedes the deleted words.

There further are repealed any sections, subsections and sentences of chapters 93 or 121 of the Revised Laws of Hawaii 1955, as amended by the Regular Session of the Twenty-Ninth Legislature, which relate to a lien for taxes or contributions upon real property or other assets.

Nothing in this Act shall supersede any provision of section 117-40 of the Revised Laws of Hawaii 1955.

SECTION 3. Chapter 93 of the Revised Laws of Hawaii 1955 is hereby amended by adding to section 93-70 a new subsection to be appropriately designated and to read as follows:

**"([c]) Liens, foreclosure.** The claim of the board for any contributions, including penalties and interest thereon, not paid when due, shall be a lien upon property as provided by section 115-37.5, and the powers conferred on the tax commissioner by that section apply to these contributions, the same as other territorial taxes. However, as to the powers conferred on the tax commissioner by subsection (h) of section 115-37.5, such powers are, as to these contributions, conferred on the director of labor and industrial relations, and the lien may be foreclosed in a court proceeding or by distraint under this section."

SECTION 4. **Section 115-34** of the Revised Laws of Hawaii 1955 is hereby amended as follows:

(a) By deleting the heading and inserting the following:

"Joinder of party defendant when Territory claims tax lien."

(b) By inserting in the first sentence after the word "commissioner" the following: "(or in the case of a lien under chapter 93 the director of labor and industrial relations)".

(c) By amending the first sentence of the second paragraph by inserting after the words "designated by the commissioner in writing", the following:

"or in the case of a lien under chapter 93 upon the director of labor and industrial relations,".

(d) By inserting after the word "commissioner", wherever the same appears in the last three sentences of the second paragraph, the words: "or director".

(e) By deleting from the first paragraph the words and figures "**chapters 117, 119, 120, 121 and 124 to 127**", and inserting the following: "**chapters 93, 117-121 inclusive, and 123-127 inclusive**".

SECTION 5. This Act shall not be construed as affecting in any manner, to the detriment of the Territory, any lien existing prior to the effective date of this Act. A tax lien heretofore not existing and created by or pursuant to this Act in favor of the Territory shall not be valid as against any security or other interest in property existing upon the effective date of this Act in favor of any person other than the person liable for the tax.

SECTION 6. This Act shall take effect on July 1, 1957.

(Approved May 29, 1957.) **S.B. 580, Act 185.**

**ACT 186**

An Act Amending Section 172-17 of the Revised Laws of Hawaii 1955,  
Relating to Application for Charter of Incorporation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 172-17 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) By inserting immediately before the colon in the second sentence thereof the following:

“or may incorporate, by reference to the proposed form of charter of incorporation which shall accompany the petition, the following”.

(b) By deleting from said section 172-17 the next to last sentence thereof.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 29, 1957.) **S.B. 627, Act 186.**

**ACT 187**

An Act to Amend Chapter 169 of the Revised Laws of Hawaii 1955,  
Relating to Professional Photographers.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Chapter 169 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

A. By amending section 169-1 of the Revised Laws of Hawaii 1955 to read as follows:

“**Sec. 169-1. Photographer defined.** For the purpose of this chapter, a professional photographer is defined as a person skilled in the knowledge and science of photography who makes photographs for compensation or for sale or for hire. A professional photographer does not include an amateur photographer who receives remuneration in the way of a prize or other consideration for a photograph submitted in a competition or contest, nor does it include an amateur photographer who receives any other remuneration or compensation for the sale of a photograph or photographs, so long as such person does not hold himself out to the public as being a practicing photographer who makes pictures for compensation, sale or hire.”

B. By amending the term “certified photographer”, appearing in **section 169-2 (e)** to read “licensed photographer”.

C. By amending section 169-3 to read as follows:

“**Sec. 169-3. Board of photography.** The governor shall appoint, in the manner prescribed by section 80 of the Organic Act, as the territorial board of photography, seven licensed professional photographers of recognized standing, each of whom shall have

been actively engaged in the practice of photography for not less than ten consecutive years immediately preceding the date of appointment. Four of the members shall be residents of the city and county of Honolulu; the remaining three members shall be residents of the counties of Hawaii, Maui, and Kauai, respectively."

D. By amending the first sentence of section 169-4 to read as follows:

**"Sec. 169-4. Members, vacancies, chairman.** The members of the board shall hold office for three years or until their successors are appointed and have qualified, except that of the members first appointed, two shall hold office for terms expiring July 1, 1958, three for terms expiring July 1, 1959, and two for terms expiring July 1, 1960, thereafter every appointment shall be made for a term of three years commencing from the date of the expiration of the last preceding term."

E. By amending section 169-7 to read as follows:

**"Sec. 169-7. Board's expenses; special fund.** All expenses of the board, including the salary of the secretary, shall be paid from the fees received by the board under the provisions of this chapter upon vouchers approved by the board and signed by the chairman, the secretary, or any member thereof. All moneys received by the board shall be held in the treasury of the Territory as a special fund for such purpose."

F. By amending section 169-8 to read as follows:

**"Sec. 169-8. Board's authority.** The board shall be authorized: 1. To administer oaths through any of its members, to all applicants or other persons appearing before the board in respect to investigation prior to or during the issuing of a license under the provisions of this chapter; 2. To conduct investigations of the fitness of applicants for licenses, and to issue such licenses; 3. To establish such rules and regulations as may be required to carry out the purposes of this chapter and maintain a high degree of integrity among persons licensed as professional photographers."

G. By amending section 169-9 to read as follows:

**"Sec. 169-9. Licensing.** The board shall receive applications from any person desiring to engage in business within the Territory as a professional photographer who is over the age of twenty years and is a bona fide resident of the Territory. Upon proof that the applicant has had experience of a year or more in commercial or non-commercial photography of a kind which would enable him to engage in professional photography, or upon proof that the applicant has received a diploma from a recognized school of photography, the board shall issue a license to the applicant, who shall thereupon pay the annual fee required by section 169-10, **provided**, that no license shall be granted to a person who is not of good moral character. A license may be issued for one or both of the following two classifications; namely, portrait or commercial. Each license granted by the board shall be extended from year to year upon payment of the annual fee, unless revoked for cause by the board.

The board shall also accept an application from, and issue a license to any firm, company, partnership or corporation engaged in professional photography, hereinafter referred to as a 'firm', whose owner, supervising head, or principal operator is in possession of a valid individual license. Except as required in the preceding sentence, employees of such firm need not be licensed under this chapter, but the firm shall be responsible for their failure to maintain the high degree of integrity required by the rules and regulations for licensed professional photographers."

H. By repealing **sections 169-10, 169-11, and 169-12.**

I. By renumbering **section 169-13** to be **section 169-10** and amending it to read as follows:

**"Sec. 169-10. Annual fee.** All photographers or firms licensed under the provisions of this chapter shall, on or before July 1 of each year, pay an annual fee to the secretary of the board, who shall give a receipt therefor. The initial fee for a license shall be five dollars; the annual renewal fee shall be five dollars. The secretary shall notify each licensed photographer or firm at his or its last known address that his or its annual fee is due on July 1 of each year and that the license will be revoked unless the fee is paid by August 1 of the same year. Any photographer or firm whose license shall have been revoked for non-payment of the required fee may make application to the board for reinstatement, the application to be accompanied by an additional fee of five dollars, and if the board shall find the applicant to be guilty of no violation of this chapter, other than failure to make payment of annual fees, the license shall be reinstated upon the payment of the fees in arrears."

J. By renumbering **section 169-14** to be **section 169-11** and amending the word "certificate" to read as "license" wherever it appears and to amend the word "certified" to "licensed".

K. By renumbering **section 169-15** to be **section 169-12** and amending it to read as follows:

**"Sec. 169-12. Penalty.** If any person shall act or hold himself out to the public as a professional photographer without having received a license under the provisions of this chapter or without being an employee of a licensed firm, or shall hold himself out as having received a license as a professional photographer, or shall assume to practice as a professional photographer, or to use any style or insignia indicating that he is licensed to practice as a professional photographer, without having received a license under the provisions of this chapter or after his license shall have been revoked, on conviction thereof shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars, nor more than two hundred dollars, or by imprisonment for a term not exceeding one year, or by both fine and imprisonment.

If any firm, company, partnership or corporation shall act or



hold itself out to the public as a professional photographic firm, or shall hold itself out as having received a license as a professional photographic firm, or shall assume to practice as a professional photographic firm, or to use any style or insignia indicating that it is licensed to practice as a professional photographic firm, without having received a license under the provisions of this chapter or after its license shall have been revoked, or if any firm, company partnership or corporation shall hold an employee or its employees out to the public as being licensed professional photographers or use any style or insignia indicating that he or they are so licensed when such employee or employees are not licensed to practice as professional photographers, on conviction thereof shall be deemed guilty of a misdemeanor, and shall be subject to a fine of not less than twenty-five dollars, nor more than two hundred dollars."

**SECTION 2. Severability.** If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved May 29, 1957.) **S.B. 668, Act 187.**

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### ACT 188

An Act to Amend Section 170-10 of the Revised Laws of Hawaii 1955, Relating to Real Estate Brokers and Salesmen.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Section 170-10** of the Revised Laws of Hawaii 1955, is hereby amended in the following respects:

- (a) By substituting for paragraph lettered (c), the following:
  - (c) Annual renewal for broker, \$25.
- (b) By substituting for paragraph lettered (d), the following:
  - (d) Annual renewal for salesmen, \$10.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 29, 1957.) **H.B. 548, Act 188.**

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### ACT 189

An Act For the Relief of Certain Persons, Firms and Corporations on Account of Overpayment of Taxes and Other Claims Against the Territory, and Providing Appropriations Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** The following respective sums of money are hereby

appropriated out of the general revenues of the Territory of Hawaii for the purpose of reimbursing the following named persons, firms and corporations, for overpayment of taxes or for taxes illegally collected, or on account of other claims against the Territory, in the amount set opposite their respective names:

AH NEE, Mary L. ....	\$ 224.29
Refund of real property tax overpaid for the year 1952.	
AHOI, Aiu H. ....	12.60
Refund of real property tax overpaid for year 1955.	
ANCOG, Zenon L. ....	9.40
Refund of real property tax overpaid for year 1953.	
BALTRUSCH, Arthur, Trustee in Bankruptcy of Fairfield Construction Co., Ltd. ....	216.22
Refund of gross income taxes overpaid by referee.	
BARENG, Leon P. ....	32.50
Refund of real property tax overpaid for year 1954.	
BEERS, William H., Jr. ....	66.80
Refund of real property taxes overpaid for years 1950 to 1954, inclusive.	
BISHOP TRUST CO., LTD., Executor of the Will of Helene Holt Magoon, deceased ....	114.84
Refund of real property taxes overpaid for the years 1943 to 1954, inclusive.	
CANNON, Wilson P., Sr. ....	186.00
Refund of compensation and dividends taxes paid for years 1951, 1952 and 1953.	
FAMILAR, Mrs. Irene ....	325.00
Full settlement for injuries suffered by son, Eddy Alan Santos, who fell in a manhole in Hilo in Octo- ber, 1956.	
FIRST TRUST CO. OF HILO, THE ....	15.00
Reimbursement of payment of Island Motors, Ltd. for damage to car due to paint spray by department of public works employees.	
FONG, You Lee ....	69.24
Refund of real property tax paid for year 1953.	
GLUECK, Mortimer J. ....	383.39
Refund of real property tax collected from him with respect to a parcel of land owned by the United States.	
GONSALVES, Walter ....	13.00
Refund for payment for repairs to his car which was damaged by a spike hurled by blade of power mower owned by department of public works.	

HAKALAU SUGAR COMPANY, LIMITED .....	4,390.50
Refund of fuel taxes erroneously reported, and paid the Third Taxation Division for years 1951 to 1954, inclusive.	
HAWAIIAN ELECTRIC COMPANY, LIMITED ....	20,379.22
Refund of corporation public utility taxes paid for years 1954 to 1956, inclusive.	
HAWAIIAN EVANGELICAL ASSOCIATION .....	253.41
Refund of real property tax paid for year 1956.	
HINTON, Louis D. ....	1,080.34
Refund of real property taxes overpaid for years 1952 to 1955, inclusive.	
HOSEA, Charles K. ....	244.74
Refund of real property taxes overpaid for years 1946 to 1954, inclusive.	
IBARAKI, Tadao .....	36.98
Refund of real property taxes overpaid for years 1950 to 1955, inclusive.	
INABA, Minoru .....	306.39
Payment of salary warrant dated June 29, 1951 which was never cashed.	
JIM, Johanna C. ....	28.00
Refund of real property taxes overpaid for years 1952 to 1955, inclusive.	
KAOHU, Levi .....	178.81
Refund of real property tax paid for year 1955.	
KEGON SHU TODAIJI HAWAII BEKKAKU HON-ZAN (formerly known as KEGON SHU TODAIJI HAWAII BETSUIN) .....	688.19
To rectify an error made by the Kegon Shu Todaiji in failing to make application for the real property exemption for the year 1956.	
KELIINOI, William Y. ....	59.73
Refund for real property tax overpaid for the years 1945 to 1955, inclusive.	
KERR, Nettie L. ....	10.91
Payment in lieu of warrant No. 791 dated March 6, 1950 which was outlawed.	
KIM, Shin Ho A. ....	109.96
Refund of real property tax overpaid for year 1954.	
KIMURA, Noboru; KIMURA, Miyoko Ogata; BISHOP NATIONAL BANK OF HAWAII .....	45.00
Payment in lieu of warrant No. 88-146 dated February 6, 1953 which was outlawed.	
McCABE, Herbert .....	25.20
Refund for payment for repairs to his automobile which incurred damage from the tidal wave of March	

9, 1957, while claimant was driving to a work assignment.	
McNAMARA, M. H. ....	75.00
Payment for injuries sustained to her Toy Pomeranian while in quarantine.	
MORALES, Anatalio ....	5.48
Refund of real property tax overpaid for year 1955.	
NAKAMA, Ushikichi and Yasuko ....	133.80
Refund of net income tax paid for year 1955.	
NEVILLE, Jerry J. ....	859.33
Refund of overpaid gross income taxes for the years 1939 through 1946.	
PERALTO, Frank, Jr. ....	20.35
Refund of net income tax overpaid for year 1953.	
POPE, Ella ....	306.76
Hospital and clinical expenses in connection with injuries suffered in fall on Kamehameha Highway while walking on road shoulder.	
PROTESTANT EPISCOPAL CHURCH, THE ....	406.63
Refund of real property tax overpaid for year 1956.	
RAPADAS, Pedro ....	20.00
Pay of damages to garden by cattle owned by the Territory.	
REES, Arthur K. ....	189.08
Compensation for services performed as Institutions Business Manager from November 1, 1950 to December 25, 1950, inclusive, for which no pay was received.	
REZENTES, Carrie F. ....	8.65
Refund of real property tax overpaid for year 1952.	
SAITO, Kaname ....	654.26
Refund of public utility tax paid for year 1954.	
SANDBERG, Alf ....	593.40
To rectify an error of two years of teaching credit to which he was entitled.	
SCHNACK, F. J. ....	40.48
Refund of real property tax overpaid for year 1955.	
SEE DAI DOO SOCIETY ....	337.44
Refund of overpayment of real property taxes from 1926 to 1932.	
SODETANI, Lillian Nakamura ....	975.77
To rectify an error of two years of teaching credit to which she was entitled.	
STEINER, Ernest, Trustee in Bankruptcy, No. 3300— Frank Char ....	106.54
Refund of general excise tax inadvertently paid.	

TAM, Edwin S. ....	142.54
Refund of real property taxes overpaid for years 1950, 1951 and 1953.	
TAN, Paul M. ....	245.25
Refund of real property taxes overpaid for years 1952 to 1955, inclusive.	
TANG, Bo Yat ....	7.66
Refund of real property tax overpaid for year 1954.	
TANIGUCHI, Masue ....	20.00
Payment of territorial warrant No. 51-282 dated June 10, 1952, which was never cashed and escheated to the general fund.	
TOMITA, Kazuo ....	254.59
Refund of real property taxes paid for 1954 to 1956, inclusive.	
TONGG PUBLISHING COMPANY, LTD. ....	40.00
Binding one volume of Senate records for Special Session, 27th Legislature.	
TONGG PUBLISHING COMPANY, LTD. ....	4,000.00
Reimburse it for the insurance proceeds received by the Territory for the loss of its improvements.	
UNITED STATES OF AMERICA, INTERNAL REVENUE SERVICE ....	235.00
For claim against Territorial boxing commission under chapter 3, I.R.C. (This item shall be used to pay such sum, not exceeding the amount appropriated, as may be required to meet the claim of the Internal Revenue Service arising out of the November, 1955 fights and authorization of such payment shall not be deemed a waiver of the Territory's position that the Internal Revenue Service claim is illegal and erroneous.)	
VERA CRUZ, Mrs. Hose M. ....	18.08
Refund of real property tax overpaid for year 1953.	
WAKAYAMA, Genevieve R. ....	587.41
To rectify an error in placing her, from October 9, 1950 to August 31, 1956, in Class II instead of Class III of the salary schedule.	
WILKINSON, W. G. ....	205.70
Payment of hospital and medical bills for injuries suffered while riding as a passenger in elevator of Iolani Palace.	
WONG, Andrew H. ....	10.20
Refund of compensation and dividends tax paid for year 1954.	
YAMANOHA, Yone ....	177.40
Payment in lieu of warrant No. 7100 dated July 31,	

1951 which was outlawed and escheated to the general fund.

SECTION 2. The tax commissioner is hereby authorized to remit the real property taxes assessed upon that certain parcel of land shown on the taxation maps and records of the third taxation division of the Territory of Hawaii as tax key 2-2-32-3 for the tax years 1943 to 1956, inclusive, to the Office of Alien Property and the Hilo Daijingu.

SECTION 3. The sums hereinabove appropriated shall be paid upon warrants issued by the territorial auditor upon vouchers approved by the tax commissioner in the several amounts and to the respective persons hereinabove set out, as to said claims for taxes, and shall be paid upon warrants issued by said auditor upon vouchers approved by the director of the bureau of the budget as to all other claims.

SECTION 4. Any amounts so paid which shall represent property taxes overpaid or illegally collected shall constitute an advancement to the county in which such taxes have been collected, and shall be repaid by the treasurer of the Territory into the general fund of the Territory by retaining the amount from the next collection of such taxes on account of such county and paying the same into said general fund.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 29, 1957.) **H.B. 758, Act 189.**

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## ACT 190

An Act Making It a Misdemeanor to Refuse to Relinquish a Telephone Party Line in an Emergency and Amending Title 31, Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Title 31, Revised Laws of Hawaii 1955, is hereby amended by adding thereto a new chapter to be appropriately numbered and to read as follows:

“Chapter [309A]. Telephone Conversations.

“Sec. [309A-2]. **Party Line: refusal to yield in emergency.** Any person who shall wilfully refuse to immediately relinquish a party line when informed that such line is needed for an emergency call to a fire department or police department or for medical aid or ambulance service, or any person who shall secure the use of a party line by falsely stating that such line is needed for an emergency call, shall be guilty of a misdemeanor.

**Sec. [309A-3]. ‘Party line’** as used in this chapter means a subscriber’s line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.

‘**Emergency**’ as used in this chapter means a situation in which

TELEPHONE CONVERSATIONS  
STATEMENT TO MAGISTRATE  
SUPPORT OF INDIGENT PARENTS  
CITY AND COUNTY OFFICER

ACTS 190-191-192-193

property or human life is in jeopardy and the prompt summoning of aid is essential."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 29, 1957.) **H.B. 1194, Act 190.**

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**ACT 191**

An Act Relating to Appeals and Amending Section 208-1 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 208-1** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the last paragraph thereof.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **S.B. 138, Act 191.**

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**ACT 192**

An Act Relating to the Support of Indigent Parents and Amending Section 330-22 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 330-22** of the Revised Laws of Hawaii 1955 is hereby amended by substituting for the period at the end of the first sentence thereof a semicolon and adding thereto the following:

"provided such children have received care and support from such person during their minority."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **S.B. 476, Act 192.**

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**ACT 193**

An Act to Amend Section 149-22 of the Revised Laws of Hawaii 1955, Relating to Definition of City and County Officers.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 149-22 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"**Sec. 149-22. Officer defined.** The term officer shall include the following:

(a) Any person elected to office;

(b) Any person appointed by the mayor with the approval of the board;

(c) Any person appointed by a board, commission or agency of the city and county, who is the administrative head of such board, commission or agency;

(d) The first deputy, first assistant or division chief appointed by a department or administrative head; and

(e) Deputy city and county attorneys and deputy public prosecutors.

Every subordinate officer of any department, board, commission, agency or office shall discharge any of the duties pertaining to such department, board, commission, agency or office, as his department or administrative head may assign to him."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **S.B. 703, Act 193.**

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### ACT 194

An Act Relating to Circuit Courts and Amending Section 215-21 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 215-21** of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new paragraph lettered (i), to read as follows:

"(i) All civil actions other than those specified above shall be brought in the circuit where the cause of action arose or where the defendant is domiciled; **provided**, however, if there be more than one defendant, then such action shall be brought in the circuit in which the cause of action arose unless a majority of such defendants are domiciled in another circuit, whereupon such action may be brought in the circuit where such majority of defendants are domiciled."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **S.B. 850, Act 194.**

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### ACT 195

An Act Relating to the Jurisdiction of the Circuit Courts and Amending Section 215-17 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 215-17**, subsection (f), of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"(f) After the parties thereto shall have had an opportunity to be heard, any circuit court may, upon satisfactory proof that a fair and impartial trial cannot be had in any case pending in such



court, or, in its discretion, upon satisfactory proof that it would be more fair and equitable to the parties thereto if any case pending in such court were heard in another jurisdiction, change the venue to some other circuit and order the record to be transferred thereto; **provided**, however, that any circuit court may, in its discretion, upon the consent of all the parties to any civil cause pending in such court, change the venue to some other circuit court and order the record to be transferred thereto."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **S.B. 851, Act 195.**

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**ACT 196**

An Act Relating to Jury Commissioners and Amending Section 221-9 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 221-9 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"**Sec. 221-9. Jury commission.** The judge or judges of each circuit court shall, prior to January 15 of each year, appoint for a period of one year from and after January 15, five citizens as jury commissioners, who shall be voters of the circuit and of good reputation for intelligence, morality and integrity. One of such citizens so appointed shall be a clerk of the circuit court. Any such jury commissioner may be removed by the appointing power for any reason deemed sufficient by such appointing power. No more than three commissioners shall be members of the same political party. The five citizens so appointed shall constitute the jury commission for that circuit. If a vacancy occurs in the office of a jury commissioner at any time, another commissioner shall be similarly appointed to fill the vacancy. Each jury commissioner, except the clerk of court appointed to the commission, shall be allowed for services on the jury commission such compensation as may be determined by the judge or judges to be just and reasonable, not to exceed \$250 in the first circuit and \$100 in other circuits, payable out of circuit court expense funds. Any powers granted by this section to the judges of the first circuit may, by order signed by a majority of such judges, be delegated to any one or more of such judges."

SECTION 2. This Act shall take effect upon its approval, except that the commissioners for the year 1957 shall be appointed prior to July 1, for a period to expire January 15, 1958.

(Approved May 31, 1957.) **H.B. 49, Act 196.**

**ACT 197**

An Act to Amend Section 216-4, of the Revised Laws of Hawaii 1955, Relating to Civil Jurisdiction of District Courts.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 216-4 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the first seven lines thereof, and inserting in place of the same the following:

**"Sec. 216-4. Civil jurisdiction.** The district courts shall have original and exclusive jurisdiction of all civil actions, except as otherwise provided, where the debt, amount or damages, or the value of the property claimed, does not exceed \$50; and, in the districts within the county of Hawaii, the district of Wailuku, and the district of Honolulu, concurrent jurisdiction in all civil actions, except as aforesaid, where the debt, amount or damages, or the value of the property claimed, does not exceed \$2,000, and, in the other districts of the Territory, concurrent jurisdiction in all civil actions, except as aforesaid, where the debt, amount or damages, or the value of the property claimed does not exceed \$1,000;"

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 95, Act 197.**

**ACT 198**

An Act Relating to Public Employment and Amending Section 3-21 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Paragraph (a) of **section 3-21** of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"(a) Examinations, general character. There shall be competitive examinations for testing of the relative fitness of applicants for positions in civil service. Such examinations shall be practical in their character and shall provide for ascertaining the physical and educational qualifications, experience, knowledge and skill of applicants and their relative capacity and fitness for the proper performance of the characteristic duties of the class of positions in which they seek to be employed; except that in the case of a promotional examination, such examination shall be limited, at the request of the department head, to the characteristic duties of the class and nothing else. All examinations shall be public and, except as otherwise provided by law, free and open to all citizens of the Territory but with such limitations as to health, physical condition, age, sex, education, training, experience, habits and character as the director may deem necessary and proper for the class for which the examination is to be given. Disabled veterans or physically handicapped persons shall not be disqualified for reason of such physical handicap or disability

if they possess the physical capacities to perform the duties of the class. Examinations may be oral or written or partly oral and partly written, or tests of manual skill and physical strength, or evaluations of training and experience backgrounds. Except when clearly required by the nature of the service to be performed, written examinations shall not be required of applicants for unskilled labor classes. All examinations shall be under the control of the director or such suitable person or persons as he may designate to conduct them. All persons who have passed the examination shall be required to take such physical examinations as required by the commission. The reports of such physical examinations shall be filed with the director."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 105, Act 198.**

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### ACT 199

An Act Relating to the Vacation and Sick Leave Allowances of Cafeteria Managers in the Department of Public Instruction.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 5-30** of the Revised Laws of Hawaii 1955 is hereby amended by amending the first sentence thereof by deleting the words "school teachers and school principals" and substituting therefor the following:

"school teachers, principals and cafeteria managers".

SECTION 2. **Section 5-39** of the Revised Laws of Hawaii 1955 is hereby amended by amending the first sentence thereof by deleting the words "school teachers and school principals" and substituting therefor the following:

"school teachers, principals and cafeteria managers".

SECTION 3. **Section 38-37** of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new sentence at the end thereof reading as follows:

"Cafeteria managers shall have the same vacation and sick leave allowances as school teachers and principals."

SECTION 4. This Act shall take effect September 1, 1957.

(Approved May 31, 1957.) **H.B. 130, Act 199.**

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### ACT 200

An Act to Provide Protection for Per Diem Workers and Their Retirement Rights, and Making Appropriations Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Employees occupying per diem positions at the time

of the enactment of Act 274, Session Laws of Hawaii 1955, shall be given preference in other positions in the government service. During the transition from per diem positions to other positions, laws and regulations relating to filling of vacancies, transfers, examinations, classification, and increments shall be liberally construed to provide for a smooth transition.

SECTION 2. Employees in per diem positions, who are not members of the employees' retirement system on the effective date of this Act, shall join the retirement system upon attaining a monthly status and shall receive prior service credit in the retirement system on the same basis and under the same rules and regulations as were provided in Act 110, Session Laws of Hawaii, 1951.

SECTION 3. The various counties are authorized and directed to pay to the employees' retirement system the sums necessary for the purpose of granting prior service credit in the employees' retirement system to the per diem workers in the respective counties covered by this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 156, Act 200.**

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### ACT 201

An Act Relating to Assistance for Korean Veterans With Respect to On-Farm Training, and Providing an Appropriation Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of \$16,000 is hereby appropriated from the general revenues of the Territory, not otherwise appropriated, to be included in the budget of the Division of Vocational Education, Department of Public Instruction of the Territory, and set aside specifically to pay for all veterans on-farm training instructional cost except instructional supply cost.

SECTION 2. The Department of Public Instruction shall continue this assistance as long as veterans are eligible under P. L. 550 (82nd Congress) entitled Veterans' Readjustment Act of 1952, or similar acts, subject, however, to Department of Public Instruction policies regarding the number of trainees necessary to maintain a training center.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 345, Act 201.**

### ACT 202

An Act Relating to Fees For Certified Copies and Searches, by the Board of Health and Amending Section 57-17 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 57-17 (a)** of the Revised Laws of Hawaii 1955, is hereby amended by deleting the figure "\$1" and substituting therefor the figure \$1.50".

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 352, Act 202.**

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### ACT 203

An Act Authorizing an Action Against the Territory of Hawaii by Lily Y. Murakawa.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The immunity of the Territory of Hawaii to suit is hereby waived as to a cause of action on the claim of Lily Y. Murakawa for the injuries received while a pedestrian on a sidewalk under the jurisdiction and control of the Board of Harbor Commissioners on or about the 22nd day of October, 1956, and action on such claim is hereby expressly authorized; **provided** that nothing contained herein shall be construed as an admission of liability on the part of the Territory, and **provided further** that nothing contained herein shall prohibit or prevent the Territory from settling said claim of Lily Y. Murakawa.

SECTION 2. The claimant Lily Y. Murakawa shall commence the action authorized by this Act in the Circuit Court of the Territory of Hawaii within two years from the effective date of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 669, Act 203.**

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### ACT 204

An Act to Amend Section 258-53 of the Revised Laws of Hawaii 1955 Relating to Probation and Suspension by the Circuit Court.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 258-53** of the Revised Laws of Hawaii 1955 is hereby amended by amending the second sentence of the second paragraph thereof to read as follows:

"The period of probation, together with any extension thereof, shall not exceed five years; **provided**, however, that if the defendant placed on probation, who shall be referred to herein as 'proba-

tioner', shall leave the Territory without permission from the court or the adult probation division or officer, or if the whereabouts of any probationer be not known to the court or the adult probation division or officer because of the neglect or failure of such probationer to so inform the court or the adult probation division or officer, the court may order the period of probation of such probationer suspended pending apprehension or the return of such probationer to the jurisdiction of the court; **provided, also**, that from and after such suspension of the period of probation of any probationer and until his return to the jurisdiction of the court, he shall be deemed a delinquent probationer, and no part of the time during which he is a delinquent shall be considered a part of the period of his probation; **provided, further**, that if the defendant be a minor, the court may direct, as one of the terms and conditions of probation, that the defendant be committed to an industrial school for his minority, subject to the provisions of sections 80-10, 80-30 to 80-33; and **provided, further**, that if paroled during minority, the defendant will be returned to the jurisdiction of the circuit court which committed him."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 761, Act 204.**

## ACT 205

### An Act Relating to Employment Security.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 93, Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) By amending subsection (k) of **section 93-1** to read:

"(k) 'Federal Unemployment Tax Act' means chapter 23 of subtitle C of the Internal Revenue Code of 1954."

(b) By amending the first sentence of **section 93-72** to read:

"A Penalty of ten per cent or \$10, whichever is greater, shall be added to the amount of all delinquent contributions, as hereafter defined, and any delinquent contribution and penalty remaining unpaid fifteen days after the date of delinquency shall bear interest from the date of delinquency at the rate of two-thirds of one per cent for each month or fraction of a month until paid."

(c) By amending the second paragraph of **section 93-93** to read:

"If any employer fails to report with respect to the separation of an individual or the remuneration which he paid to such individual within five working days after mailing of notice by registered or certified mail so to do, he shall pay a penalty in the amount of \$10. Such penalty shall be assessed, collected, and paid into the fund in the same manner as contributions."

(d) By adding to **section 93-11** a new subsection to be appropriately numbered and to read:

"([i]). The amount of any payment (including any amount paid by an employer into a fund to provide for such payment) made after April 1, 1956 to or on behalf of an employee under a written agreement, contract, trust arrangement, or other instrument, which makes provision for his employees generally or for a class or group of his employees, for the purpose of supplementing benefits paid under this chapter or providing benefits based on wages paid for excluded services."

(e) By amending section 93-64 to read:

**"Sec. 93-64. Charges for benefits.** Benefits paid to an individual shall be charged against the accounts of his base period employers and the amount of benefits so chargeable against each base period employer's account shall bear the same ratio to the total benefits paid to the individual as the base period wages paid to the individual by such employer bear to the total amount of base period wages paid to the individual by all of his base period employers. Benefits paid after December 31, 1950 shall be charged to employers' accounts in the calendar year in which the claimant is paid the final benefits to which he is entitled for a benefit year, by reason either of exhaustion of his maximum total benefits or the expiration of such benefit year.

No benefits shall be charged against the account of any base period employer from whose employment during such base period the individual became separated under one of the following circumstances: (1) left his work voluntarily without good cause, or (2) was discharged for misconduct connected with his work, or (3) left his work voluntarily for good cause not attributable to the employer. Nor shall benefits paid to an individual who, during his base period, earned wages for part-time employment with an employer be used as a factor in determining the future contribution rate of such employer if he continue to give the individual employment to the same extent while he is receiving benefits as during the base period and the employer establishes such fact to the satisfaction of the board."

(f) By amending section 93-103 to read:

**"Sec. 93-103. Territorial employment service.** The provisions of the Wagner-Peyser Act, as amended, are hereby accepted by this Territory and the board is hereby designated and constituted the agency of this Territory for the purpose of such Act. The board shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this chapter and for the purposes of performing such functions as are within the purview of the Wagner-Peyser Act. For the purpose of establishing and maintaining free public employment offices and promoting the use of their facilities, the board is authorized to enter into agreements with the Railroad Retirement Board, or any other agency

of the United States, or of this or any other State charged with the administration of any law whose purposes are reasonably related to the purposes of this chapter, and as a part of such agreements may accept moneys, services or quarters as a contribution to the maintenance of the territorial system of public employment offices or as reimbursement for services performed. All moneys received for such purposes shall be paid into the employment security administration fund."

(g) By deleting from the third sentence of **section 93-124** the words "or which are appropriated by the Territory for the purposes described in section 93-103".

(h) By deleting from the first sentence of **section 93-125** the words "or any moneys made available by the Territory or its political subdivisions and matched by such moneys granted to the Territory pursuant to the provisions of the Wagner-Peyser Act".

**SECTION 2.** This Act shall take effect on July 1, 1957.

(Approved May 31, 1957.) **H.B. 893, Act 205.**

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## ACT 206

An Act Relating to Reclassification of Positions in the Public Service.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** **Section 3-19** of the Revised Laws of Hawaii 1955 is hereby amended by amending subparagraph (4) of paragraph (h) thereof to read as follows:

"(4) Determine the status of employees holding positions affected by classification actions; **provided**, however, that if an employee meets the minimum qualifications of the position as reclassified, nothing contained in this chapter shall be construed to require or authorize the examination of any employee who was in service on May 1, 1957 and whose position is reclassified on the basis of the duties and responsibilities of the position as they existed on May 1, 1957 or whose position was reclassified prior to May 1, 1957 on the basis of the duties and responsibilities of the position as they existed at the time of such reclassification."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 106, Act 206.**



## ACT 207

An Act Relating to the Public Service in the Territory and the Several Counties Including Civil Service, Classification and Compensation of Public Officers and Employees and Amending Chapters 3 and 4 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 3 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

a. By amending section 3-18 thereof to read as follows:

**"Sec. 3-18. Personnel director.** The commission shall appoint and may at pleasure remove a personnel director, who shall be the chief administrative officer of the department of civil service. The position of personnel director shall be classified by the commission and shall be assigned to its appropriate place in the salary schedule. The director shall, at the time of his appointment, and thereafter, be thoroughly familiar with the principles and methods of personnel administration and shall believe in applying merit principles and scientific administrative methods to public personnel administration."

b. By amending section 3-20 thereof by adding a new paragraph (q), the same to follow paragraph (p) and to read as follows:

"(q) Position of personal director."

c. Amend section 3-25 in the following respect:

1. Delete the words "and the special appeal board shall, whenever such action is taken against the director" in lines 13 and 14 thereof.

2. Delete the fourth paragraph thereof.

3. Delete the words "and, with respect to a director of the special appeal board" in the first and second lines of the last paragraph thereof.

d. By amending the last paragraph of section 3-20 thereof to read as follows:

"nothing in this section shall be deemed to affect the civil service status of any incumbent, except the aforementioned personnel director, as it existed on July 1, 1955."

e. By amending section 3-51 thereof by adding a new paragraph (m), the same to follow paragraph (l) and to read as follows:

"(m) Position of personnel director."

f. By amending the last paragraph of section 3-51 thereof to read as follows:

"nothing in this section shall be deemed to affect the civil service status of any incumbent, except the aforementioned personnel director, as it existed on July 1, 1955."

g. By amending section 3-61 thereof by adding a new paragraph (m), the same to follow paragraph (l) and to read as follows:

"(m) Position of personnel director."

h. By amending the last paragraph of **section 3-61** thereof to read as follows:

"nothing in this section shall be deemed to affect the civil service status of any incumbent, except the personnel directors of the civil service departments of the counties of Hawaii, Maui and Kauai, as it existed on July 1, 1955."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 1076, Act 207.**

### **ACT 208**

An Act Relating to the Designation of Representative Districts, and Repealing Section 10-3 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** **Section 10-3** of the Revised Laws of Hawaii 1955 is hereby repealed.

**SECTION 2.** This Act shall not be construed to affect adversely any references contained in the Revised Laws of Hawaii 1955 to representative districts. All such references, when appropriate to the context, shall be changed to read "senatorial district" in lieu of "representative district" in recognition of the changes that have been made in the Hawaiian Organic Act.

**SECTION 3.** Effective date. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **S.B. 624, Act 208.**

### **ACT 209**

An Act Providing for Payment of Interest and Principal on Public Improvement Bonds Authorized for Issuance Under Act 375, Session Laws of Hawaii 1949, and Outstanding as at December 31, 1956.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Any other law to the contrary notwithstanding, the board of supervisors of the city and county of Honolulu may appropriate out of any revenues in the highway fund the amount necessary for annual payments of interest and principal on bonds issued under the provisions of Act 375 of the Session Laws of Hawaii 1949.

**SECTION 2.** It is expressly provided that any amount the board of supervisors may appropriate for the purpose of section 1 of this Act, shall be on bonds outstanding as at December 31, 1956 or thereafter until all such bonds are redeemed.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved May 31, 1957.) **S.B. 767, Act 209.**

**ACT 210**

An Act Allowing Sandra Harris to Sue the Territory for Injuries Suffered by Her Which Were Allegedly Due to the Negligence of the Territory or of Its Officers or Employees.

WHEREAS, Sandra Harris, a minor, on or about December 6, 1955, did suffer various injuries, including the loss of the sight of one of her eyes, while witnessing an experiment being conducted by her teacher in a public school of the Territory; and

WHEREAS, it is alleged that her injuries were caused by the negligence of the Territory or of its officers or employees; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Sandra Harris is hereby authorized to file suit against the Territory in an appropriate territorial court to recover damages which were allegedly due to the negligence of the Territory or of its officers or employees. For the purposes of this Act and the adjudication of any such claim, the immunity of the Territory to suit is hereby waived and said Sandra Harris may proceed against the Territory as in the case of any other defendant, subject to the same procedures and defenses except for the defense of immunity from suit and except that the statute of limitations shall be deemed to run only from and after the effective date of this Act; **provided**, that nothing herein contained shall be construed as an admission of liability on the part of the Territory.

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **S.B. 823, Act 210.**

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**ACT 211**

An Act to Amend Section 5-38 of the Revised Laws of Hawaii 1955, Relating to Vacation Allowances on Termination of Employment by Death.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 5-38** of the Revised Laws of Hawaii 1955 is hereby amended by amending the last sentence of the first paragraph thereof to read as follows:

"In the event that any employee shall have died with accumulated or current accrued vacation earned but not taken, an amount equal to the value of his pay over the period of such earned vacation, and any earned and unpaid wages, shall be paid to the person or persons who may have been designated as the beneficiary or beneficiaries by the employee during his lifetime in a verified written statement filed with the auditor or other disbursing officer who issues warrants or checks to pay such employee for his services as a public officer or public employee, or, failing such designation, to his or her surviving spouse, or, failing such surviving spouse, to his or her estate."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 466, Act 211.**

## ACT 212

An Act Relating to Scholarships at the University of Hawaii, Amending Section 44-12, 44-13 and 44-15, and Repealing Sections 44-14 and 44-16 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 44-12 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 44-12. Scholarships.** The board of regents shall each year award scholarships to students in such necessitous circumstances that they would otherwise be unable to attend the university. Students awarded scholarships must be citizens of the United States who were born in the Territory, and who have been for at least two years prior to their admittance to the university residents of the senatorial districts from which they are designated, and who have been recommended by either a representative or senator from his senatorial district."

SECTION 2. Section 44-13 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 44-13. Recipients of scholarships exempted from what fees.** The students to whom scholarships are awarded shall be exempted only from the payment of tuition fees and registration fees at the university. They are not to be exempted, however, from the payment of such other special fees as the university may exact for the use of laboratories, special equipment, or participation in student activities and privileges."

SECTION 3. Section 44-15 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 44-15. Number and allocation of scholarships.** No more than ninety-six holders of territorial scholarships shall be attending the university at any one time. Each scholarship shall be granted for the period of one academic year, and shall be renewed each year for all recipients who maintain a satisfactory standard of scholarship and deportment. No student shall receive territorial scholarship grants for a period longer than four academic years. The maximum number of scholarships among the several senatorial districts at any one time shall be as follows:

First senatorial district.....	14
Second senatorial district.....	14
Third senatorial district.....	20
Fourth senatorial district.....	14
Fifth senatorial district.....	14
Sixth senatorial district.....	20."

SECTION 4. Sections 44-14 and 44-16 of the Revised Laws of Hawaii 1955 are hereby repealed.

SECTION 5. The senatorial districts referred to in this Act are those districts which are designated in section 32 of the Hawaiian Organic

Act as amended by Public Law 895 of the Eighty-Fourth Congress.

SECTION 6. In computing its budget requests, the board of regents of the university shall not show amounts of tuition and registration fees from which holders of scholarships are exempted. These amounts shall be reported for information purposes to the budget bureau, but shall not be included in the statement of university income.

SECTION 7. This Act shall take effect upon its approval; **provided**, that the terms and conditions of territorial scholarships in effect on the effective date of this Act shall continue to apply to their recipients insofar as they maintain a satisfactory standard of scholarship and deportment.

(Approved May 31, 1957.) **H.B. 504, Act 212.**

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### ACT 213

An Act to Amend Section 220-2 of the Revised Laws of Hawaii 1955, Relating to Salaries of District Magistrates.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 220-2** of the Revised Laws of Hawaii 1955 is hereby amended as follows:

(a) By deleting, after the words "district magistrate, Ewa", the figures "325.00" and "3,900.00" and substituting the figures "350.00" and "4,200", respectively.

SECTION 2. This Act shall take effect on July 1, 1957.

(Approved May 31, 1957.) **H.B. 529, Act 213.**

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### ACT 214

An Act Amending Chapter 97, Revised Laws of Hawaii 1955, Relating to Workmen's Compensation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 97-21** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figure "\$20,000" wherever it appears in the section and substituting the figure "\$25,000".

SECTION 2. **Section 97-25** is amended by deleting the figure "\$20,000" wherever it appears in the section and substituting the figure "\$25,000".

SECTION 3. **Section 97-26 is amended by:**

(a) Deleting the figure "\$20,000" wherever it appears in the section and substituting the figure "\$25,000".

(b) Amending the paragraph entitled "Facial or head disfigurement" to read:

"Disfigurement. In case of injury resulting in disfigurement the director may, in his discretion, make such award or

compensation as he may deem proper and equitable, in view of the nature of the disfigurement, but not to exceed \$7,000."

SECTION 4. **Section 97-69** is amended by changing the period appearing at the end of the section to a semicolon and adding the following words:

"**provided** that if an employer appeals a decision and award of the appellate board and in such appeal is unsuccessful in the circuit court, the costs of the proceedings before the appellate board and the circuit court, together with reasonable attorneys' fees, shall be assessed against the employer."

SECTION 5. This Act shall take effect on July 1, 1957.

(Approved May 31, 1957.) **H.B. 577, Act 214.**

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### ACT 215

An Act Amending Sections 97-24, 97-25, and 97-26 of Chapter 97, Revised Laws of Hawaii 1955, Relating to Workmen's Compensation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 97-24** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figures "\$75" and "\$27" appearing in the first paragraph and substituting the figures "\$112.50" and "\$30", respectively.

SECTION 2. **Section 97-25** of the Revised Laws of Hawaii 1955 is hereby amended as follows:

(a) By deleting the figure "\$50" appearing in the first paragraph of subsection (a) and substituting the figure "\$75".

(b) By deleting the figure "\$50" appearing in the first paragraph of subsection (b) and substituting the figure "\$75".

SECTION 3. **Section 97-26** of the Revised Laws of Hawaii 1955 is hereby amended as follows:

(a) By deleting the figure "\$50" appearing in subsection (a) and substituting the figure "\$75".

(b) By deleting the figure "\$35" appearing in subsection (b) and substituting the figure "\$50".

SECTION 4. This Act shall take effect on July 1, 1957.

(Approved May 31, 1957.) **H.B. 586, Act 215.**

## ACT 216

An Act Relating to Workmen's Compensation.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 97-28 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 97-28. Payment after death.** When an employee has been awarded or is entitled to an award of compensation for permanent partial disability, or for permanent total disability, and dies from any other cause than the injury for which he was entitled to compensation, payment of the unpaid balance of compensation shall be made weekly to his dependents within the meaning of section 97-20 **provided** that further compensation at a reduced rate of fifty per cent shall not be payable as set out in section 97-25; nor shall the special compensation fund be further liable in any manner, as follows:

(a) To a dependent widow or widower, for the use and benefit of the widow or widower and the dependent children, if any. The director may from time to time apportion such compensation among the widow or widower and any dependent children.

(b) If there be no dependent widow or widower, but a dependent child or children, then to the child or children, to be divided equally among them if more than one.

(c) If there be no dependent widow, widower, or child, but there be a dependent father or mother, then to such parent, or if both parents be dependent, then to be divided equally between them; or if there be no such parents, but a dependent grandparent, then to the grandparent, or if more than one, then to be divided equally among them.

(d) If there be no dependent widow, widower, child, parent, or grandparent, but there be a dependent grandchild, brother, or sister, then to such dependent, or if more than one, then to be divided equally among them.

(e) If there be no dependents within the meaning of section 97-20, such compensation shall be paid in a lump sum into the special compensation fund; **provided**, however, that if such compensation exceeds \$2,000, only \$2,000 shall be so paid."

SECTION 2. This Act shall take effect on July 1, 1957.

(Approved May 31, 1957.) **H.B. 625, Act 216.**

**ACT 217**

An Act Amending Chapters 123 and 129 of the Revised Laws of Hawaii 1955, Relating to the Fuel Tax and the Proceeds Thereof.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** **Section 123-1** of the Revised Laws of Hawaii 1955 is amended in the following respects:

(a) By inserting therein a new paragraph to follow the definition of "Distributor" and to read as follows:

"'Aviation fuel' means and includes all liquid substances of whatever chemical composition usable for the propulsion of airplanes."

(b) By adding to the paragraph defining "Liquid fuel" and "fuel" the following sentence:

"All aviation fuel which is sold for use in or used for airplanes is deemed to be 'liquid fuel' of 'fuel' whether or not coming within the definition contained in the foregoing sentence."

**SECTION 2.** **Section 123-3** of the Revised Laws of Hawaii 1955 is amended in the following respects:

(a) By inserting in paragraph (2) of subsection (a), after the word "gasoline", the words "or other aviation fuel."

(b) By amending subsection (c) by adding at the end of the first paragraph a new sentence to read as follows:

"This subsection shall not apply to aviation fuel sold for use in or used for airplanes."

**SECTION 3.** **Section 129-11** of the Revised Laws of Hawaii 1955, is hereby amended by inserting after the word "gasoline", in the proviso of the first paragraph, the words "or other aviation fuel."

**SECTION 4.** Nothing in this Act shall be deemed to limit the broad scope of the word "use" as defined by section 123-1 of the Revised Laws of Hawaii 1955.

**SECTION 5.** If any section, sentence, clause or phrase of this Act, or its application to any person or circumstances, is for any reason held to be unconstitutional or invalid, the remaining portions of this Act, or the application of this Act to other persons or circumstances, shall not be affected. The legislature hereby declares that it would have passed this Act and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more other sections, sentences, clauses or phrases be declared unconstitutional or invalid.

**SECTION 6.** This Act, upon its approval, shall take effect July 1, 1959.

(Approved May 31, 1957.) **H.B. 631, Act 217.**



**ACT 218**

An Act Waiving the Territory Immunity to Suit, Statute of Limitations Against the Territory of Hawaii and the City and County of Honolulu and Requirement of Notice of Injuries to the City and County of Honolulu for the Claim of Bonnie Elizabeth Fischer for Alleged Personal Injuries to Bonnie Elizabeth Fischer at the War Memorial Natatorium.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The immunity of the Territory to suit, the statute of limitations against the Territory and the City and County of Honolulu and the requirement of notice of injuries against the City and County of Honolulu are waived on the claim of Bonnie Elizabeth Fischer for alleged personal injuries sustained by her on February 19, 1955 from the alleged negligence of the officers and employees of the Territory and the City and County of Honolulu at the War Memorial Natatorium.

SECTION 2. No claim presented by Bonnie Elizabeth Fischer shall be deemed a legally adjudicated claim within the contemplation of Section 1, unless it shall be found to be a valid legal claim by a court of competent jurisdiction in a final judgment against the Territory of Hawaii or the City and County of Honolulu or both the Territory of Hawaii and the City and County of Honolulu. Each governmental unit is authorized to pay its respective obligation as ordered by the Court.

SECTION 3. The claimant shall commence an action or suit in the appropriate circuit court of the Territory of Hawaii within two years of the effective date of this Act.

SECTION 4. Nothing contained herein shall be construed as an admission of liability on the part of the Territory of Hawaii and the City and County of Honolulu.

SECTION 5. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 742, Act 218.**

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**ACT 219**

An Act Relating to Qualifications for Taking Examination to Practice Medicine.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 64-3** (d) of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

“(d) He is a graduate of a medical school or college approved by the council on medical education and hospitals of the American Medical Association, or in lieu thereof, has actively practiced, either in some other jurisdiction, or in the United States army or navy or public health service, as a licensed physician of medicine or surgery for ten out of the eleven years immediately

preceding the date of application to take such examination; **provided**, that an applicant who is a graduate of a foreign medical school, who has had at least three years' medical experience or training in a hospital approved by the council on medical education and hospitals of the American Medical Association for internship or residency, and who has all the other qualifications enumerated in this section, except those listed in the first portion of this subsection, may apply for such examination not later than June 30, 1958."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 962, Act 219.**

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### ACT 220

An Act to Amend Section 130-1 of the Revised Laws of Hawaii 1955, Relating to Vehicle Weight Tax.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 130-1** of the Revised Laws of Hawaii 1955, is hereby amended by amending the definition of "net weight" as defined thereof to read as follows:

" 'Net weight' of a vehicle means the actual weight of each vehicle, as determined on a standard scale, with all equipment and accessories ordinarily attached to and used on the vehicle. In the case of a motor vehicle, it includes the maximum fuel, oil and water possible of being carried for its operation; **provided**, that 'net weight' of a new standard equipped passenger vehicle means the shipping weight thereof as established by its manufacturer, plus one hundred pounds, and 'net weight' of a new standard factory made truck means the shipping weight thereof as established by its manufacturer, plus two hundred pounds; **provided further**, that on initial registration of standard equipped passenger vehicles and trucks for which the treasurer has the manufacturer's established weights, the treasurer, in lieu of requiring such motor vehicles to be weighed, may use such established weights and require the owners to furnish verification of factory serial and engine numbers of each vehicle and to determine 'net weight', add one hundred pounds in the case of standard equipped passenger vehicles, and two hundred pounds in the case of trucks. As to those passenger motor vehicles or trucks for which the manufacturer's weight is not available or whose make and model cannot be determined with reasonable certainty or which have been so altered as to increase or diminish the weight thereof 'net weight' means the actual weight of such vehicle, as determined on a standard scale with all equipment and accessories ordinarily attached to and used on the vehicle and including the maximum fuel, oil and water possible of being carried for its operation. In all cases information shall be presented to and in the manner prescribed by the treasurer."

SECTION 2. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 1154, Act 220.**

**ACT 221**

An Act Relating to Reimbursement to the City and County of Honolulu for the Cost of Sewer Improvements in Improvement District No. 98, Saratoga Road, City and County of Honolulu, Making an Appropriation Therefor and Authorizing and Directing the Commissioner of Public Lands to Seek Reimbursement from the United States of America for the Amount Therein Reimbursed to the City and County of Honolulu

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of twenty-seven thousand one hundred eight dollars and sixty-four cents (\$27,108.64) is hereby appropriated out of the general revenues of the Territory of Hawaii, not otherwise appropriated, to reimburse the city and county of Honolulu for payments made by it under the provisions of section 153-3 of the Revised Laws of Hawaii 1955 as assessments on lands owned by the United States of America for general improvements constructed within improvement district No. 98, Saratoga Road, in the district of Honolulu.

SECTION 2. The said sum of twenty-seven thousand one hundred eight dollars and sixty-four cents (\$27,108.64), hereby appropriated, shall be paid to the treasurer of the city and county of Honolulu by the treasurer of the Territory of Hawaii, when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. The commissioner of public lands is hereby authorized and directed to undertake such action as shall be necessary to secure the payment of the sum of twenty-seven thousand one hundred eight dollars and sixty-four cents (\$27,108.64) from the United States of America to reimburse the Territory for the appropriation made by this Act reimbursing the city and county of Honolulu.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 670, Act 221.**

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**ACT 222**

An Act Appropriating the Sum of Ten Thousand Six Hundred Twenty-Six Dollars and Fifty-Two Cents (\$10,626.52) to Reimburse the City and County of Honolulu for the Cost of Improvements in Improvement District No. 96, Piikoi Street, in the District of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of ten thousand six hundred twenty-six dollars and fifty-two cents (\$10,626.52) is hereby appropriated out of the general revenues of the Territory of Hawaii, not otherwise appropriated, to reimburse the city and county of Honolulu for payments made by it under the provisions of section 153-3 of the Revised Laws of Hawaii 1955 as assessments on lands owned by the Territory of Hawaii for general

improvements constructed within improvement district number 96, Piikoi Street, in the district of Honolulu.

SECTION 2. The said sum of ten thousand six hundred twenty-six dollars and fifty-two cents (\$10,626.52), hereby appropriated, shall be paid to the treasurer of the city and county of Honolulu by the treasurer of the Territory of Hawaii, when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 672, Act 222.**

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### ACT 223

An Act Appropriating the Sum of Nine Hundred Dollars (\$900.00) to Reimburse the City and County of Honolulu for the Cost of Sewer Improvements in Improvement District No. 114, Pearl City Sewers, in the City and County of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of nine hundred dollars (\$900.00) is hereby appropriated out of the general revenues of the Territory of Hawaii, not otherwise appropriated, to reimburse the city and county of Honolulu for payments made by it under the provisions of section 153-3 of the Revised Laws of Hawaii 1955 as assessments on lands owned by the Honpa Hongwanji Mission, for sewer improvements constructed within improvement district number 114, Pearl City sewer, in the city and county of Honolulu.

SECTION 2. The said sum of nine hundred dollars (\$900.00), hereby appropriated, shall be paid to the treasurer of the city and county of Honolulu by the treasurer of the Territory of Hawaii, when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 675, Act 223.**

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### ACT 224

An Act Relating to Reimbursement to the City and County of Honolulu for the Cost of Sewer Improvements in Improvement District No. 112, Aina Haina Sewers, City and County of Honolulu, Making an Appropriation Therefor and Authorizing the Commissioner of Public Lands to Seek Reimbursement from the United States of America for a Portion of the Amount Herein Reimbursed to the City and County of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of \$5,022.96 is hereby appropriated out of the

general revenues of the Territory, not otherwise appropriated, to reimburse the city and county of Honolulu for payments made by it under the provisions of section 153-3 of the Revised Laws of Hawaii 1955, as assessments of \$4,122.96 and \$900 on lands owned by the United States of America and the Calvary Lutheran Church, respectively, for sewer improvements constructed within improvement district No. 112, Aina Haina Sewers, in the district of Honolulu.

SECTION 2. The said total sum of \$5,022.96, hereby appropriated, shall be paid to the treasurer of the city and county of Honolulu by the treasurer of the Territory, when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. The commissioner of public lands is hereby authorized to undertake such action as shall be necessary to secure the payment of the sum of \$4,122.96 from the United States of America to reimburse the Territory for that portion of the appropriation made by this Act reimbursing the city and county of Honolulu for assessments on federal lands involved in improvement district No. 112, Aina Haina Sewers.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 1957.) H.B. 688, Act 224.

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### ACT 225

An Act Appropriating the Sum of One Thousand Six Hundred Sixty-Nine Dollars and Seventy-Five Cents (\$1,669.75) to Reimburse the city and county of Honolulu for the Cost of Frontage Improvements in Improvement District No. 89, Isenberg Street from King Street to Beretania Street, in the District of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of one thousand six hundred sixty-nine dollars and seventy-five cents (\$1,669.75) is hereby appropriated out of the general revenues of the Territory of Hawaii, not otherwise appropriated, to reimburse the city and county of Honolulu for payments made by it under the provisions of section 153-3 of the Revised Laws of Hawaii 1955 as assessments on land owned by the Hongwanji Mission for frontage improvements constructed within improvement district number 89, Isenberg Street from King Street to Beretania Street, in the district of Honolulu.

SECTION 2. The said sum of one thousand six hundred sixty-nine dollars and seventy-five cents (\$1,669.75), hereby appropriated, shall be paid to the treasurer of the city and county of Honolulu by the treasurer of the Territory of Hawaii, when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1957.) H.B. 690, Act 225.

### ACT 226

An Act Appropriating from the Hawaii Housing Authority Revolving Fund the Sum of Twenty-Five Thousand Eight Hundred Ninety-Six Dollars and Sixty-Four Cents (\$25,896.64) to Reimburse the City and County of Honolulu for the Cost of Improvements in Improvement District No. 109, Kam IV Road, in the District of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of twenty-five thousand eight hundred ninety-six dollars and sixty-four cents (\$25,896.64) is hereby appropriated out of the Hawaii Housing Authority Revolving Fund, to reimburse the city and county of Honolulu for payments made by it under the provisions of Section 153-3 of the Revised Laws of Hawaii 1955 as assessments on lands owned by the Hawaii Housing Authority for general improvements constructed within improvement district number 109, Kam IV Road, in the district of Honolulu.

SECTION 2. Notwithstanding the provisions of Section 74-24 and any other provision contained in the Revised Laws of Hawaii 1955, the Hawaii Housing Authority is hereby authorized and directed to reimburse the city and county of Honolulu the said sum of twenty-five thousand eight hundred ninety-six dollars and sixty-four cents (\$25,896.64) when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 31, 1957.) **H.B. 693, Act 226.**

### ACT 227

An Act Appropriating the Sum of Six Hundred Sixty-Five Dollars and Sixty-One Cents (\$665.61) to Reimburse the City and County of Honolulu for the Cost of Improvements in Improvement District No. 92, Puu Panini Avenue, in the District of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The sum of six hundred sixty-five dollars and sixty-one cents (\$665.61) is hereby appropriated out of the general revenues of the Territory of Hawaii, not otherwise appropriated, to reimburse the city and county of Honolulu for payments made by it under the provisions of Section 153-3 of the Revised Laws of Hawaii 1955 as assessments on lands owned by the Territory of Hawaii for general improvements constructed within improvement district number 92, Puu Panini Avenue, in the district of Honolulu.

SECTION 2. The said sum of six hundred sixty-five dollars and sixty-one cents (\$665.61), hereby appropriated, shall be paid to the treasurer of the city and county of Honolulu by the treasurer of the Territory of Hawaii, when and as requested by resolution of the board of supervisors of the city and county of Honolulu.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 1, 1957.) **H.B. 701, Act 227.**

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### ACT 228

An Act to Amend Section 144-45, Revised Laws of Hawaii 1955, Relating to the Power of Appointment and Removal of Certain Employees and Officers of the Counties of Hawaii, Kauai and Maui.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 144-45**, Revised Laws of Hawaii 1955, is hereby amended by substituting a semi-colon for the period at the end of the first sentence thereof and adding the following:

**"provided** that the chairman and executive officer may appoint all clerks, assistants and employees necessary to carry out the administrative functions of his office and may suspend or remove them at his sole discretion for just and lawful cause."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 1, 1957.) **H.B. 738, Act 228.**

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### ACT 229

An Act Authorizing the Board of Commissioners of Agriculture and Forestry to Institute a Brucellosis Testing Program, to Pay Indemnities for Cattle Sent to Slaughter as Reactors to the Brucellosis Test, and Fixing the Amount of Indemnity.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The board of commissioners of agriculture and forestry is hereby authorized to institute and conduct a brucellosis testing program through the division of animal industry of the board.

SECTION 2. The Board may pay indemnities to owners of cattle sent to slaughter as reactors to the brucellosis test. The payment shall be in the amount of one-third of the difference between the appraised value of each animal slaughtered and the salvage value thereof to owners of cattle reacting positively to the brucellosis test and sent to slaughter; **provided**, however, that in no case shall this amount exceed \$75 per animal; and **provided further**, that no indemnity shall be paid for steers and spayed heifers. The Board shall prescribe and enforce rules under which the amount of indemnification shall be ascertained, pursuant to this Act.

The amount of indemnification having been thus ascertained, the owner may present to the territorial auditor a claim against the Territory therefor. A warrant for the payment of such claim shall be made upon vouchers approved by the president of the Board and supported by the inspector's report.

SECTION 3. The Board may take such action that it may deem necessary to further the provisions of this Act over any ensuing biennium, and the Board may include whatever it may deem necessary in its budgetary request for the 1959-1961 biennium.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 1, 1957.) **H.B. 759, Act 229.**

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### ACT 230

An Act to Amend Section 21-68 of the Revised Laws of Hawaii 1955, Relating to Fishing in Certain Waters.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 21-68 of the Revised Laws of Hawaii 1955 is hereby amended by amending the first paragraph thereof to read as follows:

**"Sec. 21-68. Fishing in Waikiki and other waters; penalty.** It shall be unlawful for any person to fish in the waters of the Waikiki reclamation canal, the drainage canal constructed in connection with Kapiolani Boulevard or the Kapalama drainage canal on Oahu, or the Kapaa and Waikaena canals on Kauai, with any device whatsoever, except as hereinafter provided."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 1, 1957.) **H.B. 1066, Act 230.**

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### ACT 231

An Act Relating to the Employees' Retirement System of the Territory of Hawaii and Amending Chapter 6, Revised Laws of Hawaii, 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 6, Revised Laws of Hawaii 1955 is hereby amended in the following respects:

a. By adding the following definitions to **Sec. 6-20**:

"Fireman": means all regularly employed members of the fire departments of the City and County of Honolulu and the Counties of Kauai, Maui and Hawaii, whose principal duties are to prevent and fight fires.

"Policeman": means all duly commissioned members of the police departments of the City and County of Honolulu and the Counties of Kauai, Maui and Hawaii, whose principal duties are law enforcement and who are paid on a monthly salary basis, including, without limiting the generality of the foregoing, all police matrons and guards who work under the jurisdiction of the police departments of the City and County of Honolulu and the various Counties.

b. By amending **Sec. 6-41 (a)** to read as follows:



"(a) Any member who will have attained the age of at least sixty years on the date he shall specify in the manner hereinafter set forth, or, if a fireman or policeman, will have completed 25 years of service and will have attained the age of fifty-five years on the date so specified, may retire upon his written application to the board specifying on what date, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, he desires to be retired, and notwithstanding that during such period of notification, he may have been separated from service;"

c. By adding at the end of **Sec. 6-42** the following:

"Notwithstanding the foregoing, the pension, in addition to the annuity, allowable in the case of a fireman or a policeman, shall consist of: (1) 1 per cent of his average final compensation for each of his first 25 years of creditable service rendered after June 30, 1957; (2)  $\frac{3}{4}$  of 1 per cent of his average final compensation for each of the next 10 years of creditable service after June 30, 1957; and (3) an additional pension, which when added to the annuity provided by the contributions made by the member prior to June 30, 1957, will result in a total retirement allowance of 2 per cent of his average final compensation for each year of creditable service before July 1, 1957 up to a total of 25 years, and  $1\frac{1}{2}$  per cent of his average final compensation for each of the next 10 years of creditable service."

d. By adding at the end of **Sec. 6-45**, the following:

"Notwithstanding the foregoing, the disability retirement allowance in the case of a fireman or policeman shall be his annuity plus a pension of 90 per cent of the pension computed on the basis of his average final compensation which would be allowed had he continued in service to attain his minimum age for service retirement."

e. By adding at the end of the first paragraph of **Sec. 6-82**, the following:

"Notwithstanding the foregoing, in the case of a fireman or policeman, the proportion of compensation shall be computed on the basis of retirement at attainment of age 55 and completion of 25 years of service, or age 60, whichever is lower, to provide an annuity equal to the pension allowable on account of membership service rendered after June 30, 1957."

f. By adding at the end of the first paragraph of **Sec. 6-90**, the following:

"Notwithstanding the foregoing, the accrued liability on account of any additional retirement benefits payable to firemen and policemen by reason of any amendments to the retirement system laws made by the Twenty-Ninth Legislature of the Territory of Hawaii, may with the approval of the Board be liquidated by uniform payments extending over a period of 30 years from the effective date of such amendments."

SECTION 2. Notwithstanding the provisions of House Bill No. 1229 of the Twenty-Ninth Legislature of the Territory of Hawaii, Reg-

ular Session of 1957, entitled: "AN ACT PROVIDING A BONUS FOR PENSIONERS..." no policeman or fireman receiving retirement allowances under the provisions of section 1 of this Act shall be entitled to receive any bonus.

SECTION 3. This Act shall take effect on July 1, 1957.

(Approved June 3, 1957.) **H.B. 811, Act 231.**

## ACT 232

An Act Relating to Territorial Prisons.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby appropriated the sum of \$525,000, or so much thereof as may be necessary, by way of an advancement out of the sale of prison lands, to be expended as herein provided:

- |  |           |
|--|-----------|
| (a) Construction, reconstruction, renovation and enlargement of Kulani Prison Camp on the Island of Hawaii, and equipment .....          | \$430,000 |
| (b) Construction, reconstruction, renovation and enlargement of Olinda Prison Camp on the Island of Maui, and equipment .....            | 15,000    |
| (c) Construction, reconstruction and renovation of security facilities at Oahu Prison .....  | 15,000    |
| (d) Constructing, equipping and furnishing two residences for personnel of Kulani Prison Camp on the Island of Hawaii .....              | 35,000    |
| (e) Surveys, soil bearing studies, technical consultation and preliminary plans for a new Territorial prison on the Island of Oahu ..... | 30,000    |

SECTION 2. In case the amount specified in either item (a) or item (b) or item (c) or item (d) in Section 1 shall not be wholly required to complete the work on such item, the unrequired balance may, after completion of said work or after it is definitely ascertained by the officer or officers in charge of the work authorized by said items that not more than a specified amount, less the whole amount appropriated by said items will be required to complete said work, be transferred by the director of institutions to supplement the appropriation of item (e) if necessary.

SECTION 3. The moneys appropriated by Section 1 shall be expended by the department of public works from proceeds of the sale of Oahu Prison lands authorized by Act 314 of the Session Laws of Hawaii 1951.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **H.B. 812, Act 232.**

**ACT 233**

An Act Relating to the Power of the Attorney General to Control and Direct the Various Municipal and County Legal Officers, and Relating to the Power of the Mayor of the City and County of Honolulu to Appoint and Remove such Officers.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 144-72** of the Revised Laws of Hawaii 1955 is hereby repealed.

SECTION 2. **Section 149-20** of the Revised Laws of Hawaii 1955 is hereby amended by amending the second paragraph thereof to read as follows:

"The mayor, with the approval of the board of supervisors, shall appoint the public prosecutor and the city and county attorney; **provided** that the public prosecutor may be appointed city and county attorney or the city and county attorney may be appointed public prosecutor, in which event, the prosecutor or the city and county attorney, as the case may be, shall only be entitled to receive the salary of one office. The public prosecutor shall prosecute offenses against the laws of the Territory under the authority of the attorney general."

SECTION 3. **Section 149-113** of the Revised Laws of Hawaii 1955 is hereby amended by deleting from the thirteenth and fourteenth lines of the first paragraph thereof, the words "city and county attorney, public prosecutor, and".

SECTION 4. This Act shall take effect on July 1, 1957.

(Approved June 3, 1957.) **H.B. 477, Act 233.**

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**ACT 234**

An Act to Develop and Regulate, Through Zoning, Forest and Other Lands in the Various Counties, to Amend Sections 19-5 and 149-184 and Repeal Section 128-21 of the Revised Laws of Hawaii 1955, to Provide for Cooperation with the U. S. Forest Service, and make appropriations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Statement of policy.** The pressure of a rapidly increasing population in the Territory of Hawaii requires an orderly economic growth within the various counties, and the conservation and development of all natural resources. Adequate controls must be established, maintained and enforced by responsible agencies of government to reduce waste and put all of our limited land area, and the resources found thereon, to their most beneficial use.

It is the intent and purpose of the legislature, by means of zoning ordinances and regulations enacted by or under this act, and in accord with a long range, comprehensive general plan, to promote the health,

safety, convenience, order, welfare and prosperity of the present and future inhabitants of the Territory. Such ordinances and regulations shall be designed, among other things, to (1) lessen congestion in the streets and roads; (2) secure safety from fire and other dangers; (3) provide adequate light and air in urban construction; (4) prevent both excessive concentration and wasteful scattering of population; (5) promote classification of land uses; (6) encourage both rural and urban development; (7) establish standards for the conservation of water and develop forest resources; (8) improve drainage, sanitation, educational opportunities and recreational facilities; (9) foster the Territory's agriculture and industries; and (10) by doing these things, protect and broaden the tax base.

**SECTION 2. Forest and water reserve zones.** There are hereby established forest and water reserve zones in each of the counties of the Territory of Hawaii. These zones shall initially encompass all of those areas in the various counties, either government or privately owned, contained within the forest reserve boundaries as established on January 21, 1957. No use, except a non-conforming use as defined in this section 2, shall be made of such areas unless such use is in accord with a zoning regulation adopted pursuant to this section or unless such use is allowed under a temporary variance granted by the board of commissioners of agriculture and forestry; **provided**, however, that any owner of land within the forest reserve boundaries who shall desire to establish a use or uses for his land, or a greater or different use or uses, if his land is classed as non-conforming, shall make application in accordance with subsection C of this section, and if within one hundred eighty days after receipt of such application the board shall fail to give notice, hold a hearing, and render a decision consistent with the standards set forth in subsection A of this section, such owner may automatically put his land to the use or uses requested in his application; **provided further** that any owner of land within the forest reserve boundaries who has surrendered his land to the Territory under the terms of section 19-5 or section 128-21, Revised Laws of Hawaii 1955, and whose surrender agreement is in effect on the effective date of this act, shall have the option, prior to January 1, 1958, to rescind such surrender agreement without penalty, and to either negotiate a new surrender agreement under the terms of section 19-5 as amended by section 4 of this act or in the alternative to have his land subjected to taxation and regulation under the provisions of this act subsequent to the date of such rescission.

Neither this act nor any regulation enacted under this act shall prohibit the continuance of the lawful use of any building, premises or land for any trade, industrial, residential or other purpose for which such building, premises or land is used at the time this act or any regulation adopted under authority of this act takes effect. All such existing uses shall be non-conforming uses. Any parcel of land of not more than ten acres in area contained within the boundaries of the forest reserve which, as of January 31, 1957, was subject to real property taxes and upon which such taxes were being paid, and which was held and intended for residential or farming use, whether actually put to such use or not, shall also be considered as non-conforming and capable of such use.

To effectuate the provisions of this section, the board of commissioners of agriculture and forestry shall have the following powers and duties, in addition to all other powers and duties:

**A. General powers.** The board of commissioners of agriculture and forestry shall, after notice and hearing as herein provided, review and redefine the boundaries of forest and water reserve zones as established by or under the authority of this act. The board may allow temporary variances from zoned use where good cause is shown and where the proposed variance is for a use determined by the board to be in accordance with good conservation practices. The board may establish subzones within the forest and water reserve zones, which subzones shall be restricted to certain uses. In establishing permitted uses in such subzones, the board shall give full consideration to all available data as to soil classification and physical use capabilities of the land so as to allow and encourage the highest economic use thereof consonant with requirements for the conservation and maintenance of the purity of the water supplies arising in or running or percolating through such land.

**B. Review of zones established by this act.** The board, as soon as feasible after the effective date of this act, shall undertake to review the boundaries of all forest and water reserve zones within each county with the view of making necessary corrections and establishing subzones within such zones, and fixing permissible uses therein. The board shall, after such review, prepare a proposed set of regulations, complete with necessary maps, establishing zone and subzone boundaries, and designating permitted uses therein. These proposed regulations and necessary maps shall be made available for inspection by interested members of the public. After notice and hearings as provided in subsection C of this section, the board may adopt such regulations as proposed or as amended. When adopted and after promulgation as required by law, such regulations shall have the force and effect of law.

**C. Notice, hearings.** Whenever any landowner or government agency whose property will be directly affected makes an application to change the boundaries of any forest and water reserve zone, or the boundaries or permitted uses of any subzone therein, or to establish a subzone with certain permitted uses, or where the board proposes to make such change or changes itself, such change or changes shall be put in the form of a proposed regulation by the applicant and the board shall then give notice by publication at least once in a newspaper of general circulation in the county and by mail to all landowners whose property is directly affected by any such proposed change. Such notice shall be given not less than fourteen days prior to the date set for hearing, and shall state the time and place of the hearing and the changes proposed. Any proposed regulation and the necessary maps shall be made available for inspection by interested members of the public. The hearing shall be conducted by the president of the board, or by some member or employee designated by him. For the purpose of its public hearing or hearings, the board shall have power to summon witnesses, administer oaths, and require the giving of testimony.

D. **Scope of zoning regulations.** The board shall, after notice and hearing as provided herein, adopt such regulations governing the use of land within the boundaries of the forest and water reserve zones as will not be detrimental to the conservation of necessary forest growth and the conservation and development of water resources adequate for present and future needs. The board by means of such regulations may establish subzones within any forest and water reserve zone and specify the land uses permitted therein which may include, but are not limited to, farming, flower gardening, operation of nurseries or orchards, growth of commercial timber, grazing, recreational or hunting pursuits, or residential use. Such regulations may also control the extent, manner and times of such permitted uses, and may specifically prohibit unlimited cutting of forest growth, soil mining, or other activities detrimental to good conservation practices.

E. **Enforcement.** The board shall prescribe such administrative procedures, and provide such personnel as it may deem necessary for the enforcement of the provisions of this act, and any zoning regulation enacted in accordance therewith. Such regulations may be enforced by court order at the suit of the board or of the owner or owners of real estate directly affected by such regulation. Any person violating this act or any regulation adopted in accordance with this act shall be fined not more than five hundred dollars.

SECTION 3. Notwithstanding any other law or parts of laws enacted by the Twenty-Ninth Legislature of the Territory relating to strip mining of bauxite or other minerals, no original permit or license for such strip mining on land within the forest reserve boundaries shall be issued by the commissioner of public lands or any other officer or agency of the Territory without the prior approval and concurrence of the board of agriculture and forestry. In determining whether to grant or withhold such approval, the board shall be guided by the standards set forth in section 2 of this act. All other laws or parts of laws enacted by the Twenty-Ninth Legislature relating to such strip mining are hereby expressly repealed to the extent that they are in conflict with this section.

SECTION 4. Section 19-5 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 19-5. Surrender of private land.** Any person may, on agreement with the board of agriculture and forestry, at any time surrender to the government the care, custody and control of any lands, whether held under lease or in fee, as forest or water reserve lands, either for a term of not less than twenty years, or forever. Such surrender agreement may reserve to the surrendering party all, part, or none of the rights to the water located or arising on or flowing through such surrendered lands. Such agreement shall be in writing and shall contain the proviso that the government may develop and improve such land through plantings and erosion control and may construct such improvements thereon as may be allowed by the agreement. It shall contain the further proviso that the government shall retain title to all such improvements with right of removal, and the party surrendering shall, at the end

of the surrender period, if he desires to have such improvements left on the lands, pay to the government the reasonable value, allowing for depreciation and permitted use, of any such improvements. It shall also provide that the party surrendering shall, at the end of the surrender period, pay to the government the then reasonable value of any timber or other crops planted during the term of surrender.

No taxes shall be levied or collected on any private lands so surrendered so long as the land remains exclusively under the control of the government as a forest reservation."

The provisions of section 19-5, as amended, shall not be construed as affecting the terms of any existing surrender agreement entered into prior to the effective date of this act except as set forth in section 2 hereof.

**SECTION 5.** **Section 128-21** of the Revised Laws of Hawaii 1955, relating to forest reserve land tax exemption, is hereby repealed.

**SECTION 6.** Any final order of the board of commissioners of agriculture and forestry based upon this act, or any final order of a zoning agency established under authority of section 9 of this act may be appealed to the circuit court of the circuit in which the land in question is found. Such appeal shall be in accord with the Hawaii Rules of Civil Procedure.

**SECTION 7.** There is hereby appropriated from the general revenues of the Territory not otherwise appropriated the sum of \$15,000.00 to be expended under the direction of the board of agriculture and forestry to defray the expenses of administering this act.

**SECTION 8.** The board of commissioners of agriculture and forestry shall take steps immediately to secure the establishment and operation of a forest research center in the Territory by the U. S. Forest Service. In this connection, the board shall cooperate with the U. S. Forest Service in conducting a forest resource survey in the Territory. Through photogrammetry and other techniques, the survey shall gather information on (1) kind, volume and location of timber stands, (2) productivity, ownership, condition and extent of forest land, (3) rates of timber growth and depletion by cutting and destruction by insects, diseases and other natural agents, (4) present and prospective requirements for timber production, and (5) other data essential to an adequate appraisal of the timber supply and forest condition. The sum of \$20,000.00 is hereby appropriated from the general revenues of the Territory, not otherwise appropriated, to the board to be expended for such services, equipment and supplies as deemed necessary for effectuating the purposes of this section.

**SECTION 9. County zoning.** This section and any ordinances or rules and regulations adopted in accordance with it, shall apply only to those lands not contained within the forest reserve boundaries as established on January 31, 1957 by the board of commissioners of agriculture and forestry, or as subsequently amended.

Zoning in all counties shall be accomplished within the framework of a long range, comprehensive, general plan prepared or being prepared

to guide the overall future development of the county. Zoning shall be one of the tools available to the county to put the general plan into effect in an orderly manner. Zoning in the counties of Hawaii, Maui and Kauai shall mean the establishment of districts of such number, shape and area, and the adoption of regulations for each such district as shall be deemed best suited to carry out the purposes of this act. In establishing or regulating such districts, full consideration shall be given to all available data as to soil classification and physical use capabilities of the land so as to allow and encourage the most beneficial use of such land consonant with good zoning practices. The zoning power granted herein shall be exercised by ordinance which may relate to:

A. The areas within which agriculture, forestry, industry, trade and business may be conducted.

B. The areas in which residential uses may be regulated or prohibited.

C. The areas bordering natural water courses, channels and streams, in which trades or industries, filling or dumping, erection of structures and the location of buildings may be prohibited or restricted.

D. The areas in which particular uses may be subjected to special restrictions.

E. The location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered.

F. The location, height, bulk, number of stories and size of buildings and other structures.

G. The location of roads, schools and recreation areas.

H. Building setback lines and future street lines.

I. The density and distribution of population.

J. The percentage of lot which may be occupied, size of yards, courts and other open spaces.

K. Minimum and/or maximum lot sizes.

L. Other such regulations as may be deemed by the boards as necessary and proper to permit and encourage orderly development of land resources within their jurisdictions.

The board of supervisors of any county shall prescribe such rules and regulations and administrative procedures and provide such personnel as it may deem necessary for the enforcement of the provisions of this act and any ordinance enacted in accordance therewith. Such ordinances may be enforced by appropriate fines and penalties, or by court order at the suit of the county or the owner or owners of real estate directly affected by such ordinances.

Nothing in this section shall invalidate any zoning ordinance or regulation adopted by any county or other agency of government pursuant to the statutes in effect prior to the effective date of this act.

The powers granted herein shall be liberally construed in favor of the county or city and county exercising them, and in such a manner as to promote the orderly development of each county or city and county in accord with a long range, comprehensive, general plan, and to insure



the greatest benefit for the Territory as a whole. This section shall not be construed to limit or repeal any powers now possessed by any county to achieve such ends through zoning and building regulation, except insofar as forest and water reserve zones are concerned.

Neither this section nor any ordinance enacted under this section shall prohibit the continuance of the lawful use of any building or premises for any trade, industry, residential, agricultural or other purpose for which such building or premises is used at the time this act or such ordinance takes effect, **provided**, however, that a zoning ordinance may provide for elimination of non-conforming uses as such uses are discontinued. Nothing contained in this section shall affect or impair the powers and duties of the airport zoning board as set forth in chapter 17 of the Revised Laws of Hawaii 1955.

**SECTION 10. Section 149-184** of the Revised Laws of Hawaii 1955 is hereby amended by amending the last two paragraphs thereof to read as follows:

"The master plan may be extended to areas of the city and county outside the limits of the city, as defined in section 149-2, except forest and water reserve zones, and any such extension may be initiated by the commission or the board of supervisors in the same manner as provided herein for the initiation of any addition to any change in the master plan.

Upon the authorization of any addition to, change in or extension of the master plan in accordance with the provisions of this section, the commission shall make such revision of the master plan as shall be necessary to conform thereto. In making any addition, change, or extension full consideration shall be given to all available data as to soil classification and physical use capabilities of the land, so as to allow and encourage the most beneficial use of such land consonant with good zoning practice."

**SECTION 11. Severability.** If any portion of this act or its application to any person or circumstances is held to be invalid for any reason, then the legislature hereby declares that the remainder of this act and each and every other provision thereof shall not be affected thereby.

**SECTION 12.** This Act shall take effect on July 1, 1957.

(Approved June 3, 1957.) **H.B. 3, Act 234.**

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### ACT 235

An Act Relating to District Court Costs and Amending Section 219-4 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 219-4 of the Revised Laws of Hawaii 1955 is hereby amended by amending the first two paragraphs thereof to read as follows:

**"Sec. 219-4. District court costs.** For all services of the dis-

trict court, magistrate or clerk in any one cause, \$3, including the issuance of summons, warrant, attachment or other process and supplementary proceedings, if any; entering of adjournment; administering any oath; issuing subpoena, filing any paper at the request of any party; rendering and entering up judgment; transcript or certificate of judgment; bond or other security drawn by the magistrate; noting an appeal and filing and making a return thereof; and entering any discontinuance.

For the filing of any motion for an order of examination of a judgment debtor, for the allowance of a writ of possession, or for the issuance of a garnishee summons after judgment, \$1."

SECTION 2. This Act shall take effect on July 1, 1957.

(Approved June 3, 1957.) S.B. 136, Act 235.

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### ACT 236

An Act Providing That the Territory of Hawaii May Enter into a Compact With Any of the United States for Mutual Helpfulness in Relation to Persons Convicted of Crime or Offenses Who May Be On Probation or Parole.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The governor of the Territory of Hawaii is hereby authorized and requested to execute a compact on behalf of the Territory with any State of the United States legally joining therein in the form substantially as follows:

#### "A COMPACT

Entered into by and among the contracting States, signatories hereto, with the consent of the Congress of the United States of America, granted by an Act entitled 'An Act granting the consent of Congress to any two or more States to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes.'

The contracting States solemnly agree:

(1) That it shall be competent for the duly constituted judicial and administrative authorities of a State party to this compact (herein called 'sending State'), to permit any person convicted of an offense within such State and placed on probation or released on parole to reside in any other State party to this compact (herein called 'receiving State'), while on probation or parole, if

(a) Such person is in fact a resident of or has his family residing within the receiving State and can obtain employment there;

(b) Though not a resident of the receiving State and not having his family residing there, the receiving State consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving State to investigate the home and prospective employment of such person.

A resident of the receiving State, within the meaning of this section, is one who has been an actual inhabitant of such State continuously for more than one year prior to his coming to the sending State and has not resided within the sending State more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

(2) That each receiving State will assume the duties of visitation of and supervision over probationers or parolees of any sending State and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending State may at all times enter a receiving State and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of States party hereto, as to such persons. The decision of the sending State to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving State; **provided**, however, that if at the time when a State seeks to retake a probationer or parolee there should be pending against him within the receiving State any criminal charge, or he should be suspected of having committed within such State a criminal offense, he shall not be retaken without the consent of the receiving State until discharged from prosecution or from imprisonment for such offense.

(4) That the duly accredited officers of the sending State will be permitted to transport prisoners being retaken through any and all States parties to this compact, without interference.

(5) That the governor of each State may designate an officer who, acting jointly with like officers of other contracting States, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(6) That this compact shall become operative immediately upon its execution by any State as between it and any other State or States so executing. When executed it shall have the full force and effect of law within such State, the form of execution to be in accordance with the laws of the executing State.

(7) That this compact shall continue in force and remain binding upon each executing State until renounced by it. The duties and obligations hereunder of a renouncing State shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending

State. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other State party hereto."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **S.B. 506, Act 236.**

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### ACT 237

An Act Amending Section 345-2 of the Revised Laws of Hawaii 1955, Relating to Creation of Tenancies in Property.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 345-2 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 345-2. Creation of joint tenancy, tenancy by the entirety and tenancy in common.** Land, or any interest therein, or any other type of property or property rights or interests or interest therein, may be conveyed by a person to himself and another or others as joint tenants, or by a person to himself and his spouse, or by spouses to themselves, as tenants by the entirety, or by joint tenants to themselves and another or others as joint tenants, or by tenants in common to themselves or to themselves and another or others as joint tenants, or by tenants by the entirety to themselves or themselves and another or others as joint tenants or as tenants in common, or by one tenant by the entirety to his spouse of all of his interest or interests, without the necessity of conveying through a third party, and each such instrument shall be construed as validly creating a joint tenancy, tenancy by the entirety, tenancy in common, or single ownership, as the case may be, if the tenor of the instrument manifestly indicates such intention."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **S.B. 628, Act 237.**

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### ACT 238

An Act Relating to the Bureau of Civil Identification, Amending the Fee Schedule for Issuance, Duplication, Correction or Alteration of Identification Certificates.

SECTION 1. **Sections 32-7, 32-11 and 32-12** of the Revised Laws of Hawaii 1955 are hereby amended by deleting the figure "\$1" wherever the same appears, and inserting in lieu thereof "\$2".

SECTION 2. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **S.B. 681, Act 238.**

**ACT 239**

An Act Relating to Assignment of Counsel for Indigent Defendants or Appellants; Amending Section 253-5 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 253-5 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 253-5. Assignment of counsel for indigent defendants or appellants; fees, expense of transcript, etc.** In any felony case pending in a circuit court, or appeal therein, where the person accused or convicted makes affidavit that he is without means or resources to obtain counsel, the court may assign counsel for his defense or appeal from among the attorneys licensed to practice in the courts of record of this Territory. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that he is entitled to redress.

An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is frivolous or not taken in good faith.

The court may, upon filing of a like affidavit, direct that the expense of furnishing the necessary transcript of evidence and records for the consideration of the supreme court on appeal, exceptions or writ of error shall be paid out of the appropriation made for the general expense of the circuit court before which the case is pending or from which an appeal is taken.

The fee for such court-assigned counsel shall be a minimum of two hundred fifty dollars, but shall not exceed seven hundred fifty dollars in cases where the penalty prescribed for the offense charged may be death, imprisonment for life or any term exceeding twenty years, and in other felony cases shall be a minimum of one hundred dollars, but shall not exceed two hundred fifty dollars, as in its discretion the court may allow. Additional similar fees may be allowed in the discretion of the court where as the result of a mistrial, a trial de novo is necessitated, but the foregoing fees shall be in full remuneration for all services in the circuit and supreme courts performed for the accused person in regard to the offense charged. No attorney shall be so paid who shall have received any other compensation for services in the case nor shall any attorney so paid demand or receive any other compensation for his services."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **S.B. 759, Act 239.**

**ACT 240**

An Act Relating to the Transfer of the Suburban Water System of the City and County of Honolulu by the Board of Supervisors of Said City and County; and in Such Connection Amending Act 253 of the Session Laws of Hawaii 1939, and Sections 153-1, 153-3, 153-5, 153-6, 153-10, 153-13 and 149-187 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Section 5 of Act 253** of the Session Laws of Hawaii 1939 (now appearing as subparagraph (e) in the footnotes to section 152-23 of the Revised Laws of Hawaii 1955), is hereby amended by substituting a period for the semicolon following the words "city and county of Honolulu" in the 5th line of said section 5 and deleting the remainder of said section.

**SECTION 2.** Effective upon and as of the date specified in the resolution for the transfer of the funds, property and obligations mentioned in section 152-22 of the Revised Laws of Hawaii 1955, chapter 153 of the Revised Laws of Hawaii 1955, shall stand amended as follows:

(1) By deleting from **section 153-1** thereof the words and punctuation "or water system (except in the district of Honolulu)" in the 11th line of said section;

(2) By deleting from **section 153-3** thereof the words "or water system" appearing in line 16 of said section;

(3) By deleting from **section 153-5** thereof the words "is within the district of Honolulu and" in the 2nd and 3rd lines of said section;

(4) By deleting from **section 153-6** thereof the words "is within the district of Honolulu, and" in lines 25 and 26 of the first paragraph of said section;

(5) By deleting from **section 153-6** thereof the words and punctuation "or water systems (except in the district of Honolulu)" in the 14th and 15th lines of the third paragraph of said section, and substituting the word "or" for the comma after the words "drainage system" in the 17th line of the third paragraph of said section 153-6;

(6) By deleting from **section 153-10** thereof the words "is within the district of Honolulu, and" in the 43rd line of the first paragraph of said section;

(7) By deleting from **section 153-13** thereof the words "is within the district of Honolulu and" in the 3rd line of said section.

**SECTION 3.** Effective upon and as of the date specified in the resolution for the transfer of funds, property and obligations mentioned in section 152-22 of the Revised Laws of Hawaii 1955, **section 149-187** of said Revised Laws shall stand amended as follows:

(1) By deleting therefrom the words "water and" in the 5th line of the second paragraph of said section;

(2) By deleting therefrom the words and punctuation "as to subdivisions located within the city of Honolulu, as defined in section 149-2," in lines 8 and 9 of the second paragraph of said section;

(3) By deleting therefrom the words "the commission and" in the 2nd line of the third paragraph of said section.

SECTION 4. Effective upon and as of the date specified in the resolution for the transfer of funds, property and obligations mentioned in said section 152-22, all personnel of the suburban water system of the city and county of Honolulu shall be transferred to the board of water supply of said city and county without loss of vacation allowance, service credit and other rights and privileges on the part of such personnel; subject, however, thereafter to any change of status made pursuant to chapter 3 of the Revised Laws of Hawaii 1955.

SECTION 5. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The legislature hereby declares that it would have approved this Act and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

SECTION 6. This Act shall take effect upon the adoption of the resolution provided by section 152-22 of the Revised Laws of Hawaii 1955.

(Approved June 3, 1957.) **S.B. 766, Act 240.**

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### ACT 241

An Act Relating to Mortgage Loans, Amending Chapter 174 of the Revised Laws of Hawaii 1955, and Adding a New Chapter to the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 174-30**, Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) By deleting therefrom the words "of real and personal property or interests therein".

(b) By inserting between the first and second sentences a new sentence to read as follows:

"The permitted mortgages are only those secured by real property or an interest therein; however, incidental personal property may be included in the mortgage."

SECTION 2. **Section 174-31**, Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 174-31. Exemptions.** Corporations licensed pursuant to this chapter shall be exempt from qualifying under part I of chapter 178 of the Revised Laws of Hawaii 1955 (known as the Hawaii Bank Act of 1931) and shall not be subject to the provisions of chapter 135. All income in respect of mortgage loans, which are guaranteed or insured by the Federal Housing Administration or the Veterans Administration and which are made

during the period of six years from and after the effective date of the Act of the Regular Session of the Twenty-Ninth Legislature amending this section, earned or received by any corporation authorized to do business under chapter 174 shall not be considered as income for the purpose of determining any tax, license fee or charge payable by such corporation to the Territory. The tax commissioner shall adopt regulations for the purpose of administering this section in such manner as to disallow, in the determination of territorial taxes, all deductions for expenses, or for interest, dividends or return paid or credited, or the like, attributable to or connected with income which, pursuant to this section, is not to be considered as income."

SECTION 3. **Section 174-32**, Revised Laws of Hawaii 1955 is hereby amended by deleting therefrom the figures "\$100" and inserting in lieu thereof "\$500".

SECTION 4. There is hereby added to the Revised Laws of Hawaii 1955 a new chapter, which chapter and its section shall be appropriately numbered by the secretary of the Territory, reading as follows:

**"Sec. [127A-1]. F.H.A. and V.A. mortgage loans.** Any other law to the contrary notwithstanding, including any other enactment of the Regular Session of the Twenty-Ninth Legislature, all income in respect of mortgage loans which are made within six years from the effective date of this chapter and which are guaranteed or insured by the Federal Housing Administration or the Veterans Administration, earned or received by any lender, corporate or individual, making such loans in the Territory of Hawaii shall not be considered as income for the purpose of determining any tax, license fee or charge payable by such lender to the Territory. The tax commissioner shall adopt regulations for the purpose of administering this section in such manner as to disallow, in the determination of territorial taxes, all deductions for expenses, or for interest, dividends or return paid or credited, or the like, attributable to or connected with income which, pursuant to this section, is not to be considered as income."

SECTION 5. If any provision of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of the Act or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

SECTION 6. This Act shall take effect upon its approval. The exemptions from taxation provided in sections 2 and 4 of this Act shall take effect notwithstanding any other enactment of the Regular Session of the Twenty-Ninth Legislature.

(Approved June 3, 1957.) **S.B. 781, Act 241.**



**ACT 242**

An Act to Amend Section 11-130 of the Revised Laws of Hawaii 1955,  
Relating to Absentee Voting.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 11-130 of the Revised Laws of Hawaii 1955  
is hereby amended in the following respects:

(a) By amending the first paragraph thereof to read as follows:

**"Sec. 11-130. Absentee voters generally.** Any registered voter  
who will be prevented from voting by reason of absence from the  
county or the district in which he is registered may cast his ballot  
with the county clerk or any district magistrate in such county  
within the period of ten days next preceding any primary, general,  
or special election."

(b) By deleting the second paragraph thereof.

(c) By substituting the word "ten" for the word "seven" appearing  
in the first line of the fifth paragraph thereof.

SECTION 2. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **S.B. 793, Act 242.**

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**ACT 243**

An Act Waiving the Territorial Immunity to Suit With Respect to an  
Action by Peter Y. T. Chang.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The immunity of the Territory to suit and the statute  
of limitations are hereby waived, and suit on the claim of Peter Y. T.  
Chang for compensation allegedly erroneously withheld as liquidated  
damages from the final payment made to Peter Y. T. Chang for the  
construction of additions to the Honolulu detention home, under Terri-  
tory of Hawaii Contract No. 3469, is expressly authorized. Peter Y. T.  
Chang may proceed against the Territory in this claim as in the case of  
any other defendant, subject to the same procedures and defenses, except  
for the defense of immunity from suit. Nothing contained in this Act,  
however, shall be construed as an admission of liability on the part of  
the Territory.

SECTION 2. The claimant shall commence any action or suit in  
the appropriate circuit court of the Territory within two years of the  
effective date of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **H.B. 707, Act 243.**

**ACT 244**

An Act Waiving the Defenses of Laches, Immunity From Suit and the Statute of Limitations Relative to the Claim and Authorizing Suit Against the Territory by Thomas Agapay and Margaret Agapay Against the Territory for Damages Arising Out of the Death of Thomas Phineas Agapay, Their Minor Child.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The defense of laches, the statute of limitations and immunity from suit are hereby expressly waived, and action on the claim of Thomas Agapay and Margaret Agapay arising out of the death of their minor son, Thomas Phineas Agapay, on June 17, 1954, caused by a falling triangular pipe frame belonging to and on property under the control of the Honolulu Vocational School operated by the Department of Public Instruction of the Territory of Hawaii due to the negligence of officers, agents and employees of the Territory of Hawaii, is expressly authorized and judgment may be recovered against the Territory of Hawaii; **provided** that nothing contained herein shall be construed as an admission of liability on the part of the Territory of Hawaii; and **provided, further**, that nothing contained herein shall authorize the commencement of any such action or suit at any time after the expiration of two years from the effective date of this Act.

SECTION 2. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **H.B. 827, Act 244.**

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**ACT 245**

An Act Authorizing and Directing the City and County of Honolulu to Extend the Time Within Which to Give the Mayor of the City and County of Honolulu Written Notice of Claim for Injuries and to Waive the Defenses of Laches, Immunity From Suit and the Statute of Limitations Relative to the Claim of Thomas Agapay and Margaret Agapay Against the City and County of Honolulu Arising Out of the Death of Thomas Phineas Agapay, Their Minor Child.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The City and County of Honolulu is hereby authorized and directed to extend the time within which Thomas Agapay and Margaret Agapay may give written notice of injury to the Mayor of the City and County of Honolulu on account of the claim of Thomas Agapay and Margaret Agapay arising out of the death of their minor son, Thomas Phineas Agapay, on June 17, 1954, caused by a falling triangular pipe frame belonging to and on property under the control of the Honolulu Vocational School due to the negligence of officers, agents and employees of the City and County of Honolulu, to within six months after the effective date of this Act, notwithstanding the provisions of section 149-6 of the Revised Laws of Hawaii 1955, and the City and County of Honolulu

is further hereby authorized and directed to waive the defenses of laches, statute of limitations and immunity from suit relative to said claim; **provided** that nothing contained herein shall be construed as an admission of liability on the part of the City and County of Honolulu; and **provided further**, that nothing contained herein shall authorize commencement of any such action or suit at any time after the expiration of two years from the effective date of this Act.

SECTION 2. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **H.B. 828, Act 245.**

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### ACT 246

An Act Relating to Witness Fees and Amending Section 216-6 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 216-6** of the Revised Laws of Hawaii 1955 is hereby amended by amending the second paragraph thereof to read as follows:

"Every witness duly subpoenaed as provided in this section, other than a salaried county or territorial official or employee, shall be allowed the same attendance and mileage fees allowed witnesses subpoenaed before the circuit courts."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **H.B. 905, Act 246.**

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### ACT 247

An Act Making an Appropriation for Rehabilitating Buildings, Fences, and Other Improvements at Waianae, Oahu, for the Hawaii National Guard.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby appropriated from the general revenues of the Territory the sum of \$13,750 for rehabilitation of buildings, fences, and other improvements at Waianae, Oahu, for use as an anti-aircraft battery facility of the Hawaii National Guard.

SECTION 2. The sum hereby appropriated shall be expended by and the construction shall be under the direction of the superintendent of public works.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **H.B. 1000, Act 247.**

**ACT 248**

An Act to Amend Section 153-3 of the Revised Laws of Hawaii 1955, Relating to Lands Exempt From Improvement Assessments, by Amending the First Sentence Thereof, Excluding Lands Owned by the Board of Water Supply as Public Lands.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The first sentence of **section 153-3** of the Revised Laws of Hawaii is hereby amended, by inserting the words, "except lands owned by the Board of Water Supply", following the comma after the words "(a) any public land," and before the word "or".

SECTION 2. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **H.B. 1143, Act 248.**

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**ACT 249**

An Act to Amend Section 149-181 of the Revised Laws of Hawaii 1955, Relating to the Organization, Employees and Expenses of the City Planning Commission of the City and County of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 149-181 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 149-181. Organization; employees, expenses.**

(a) The mayor shall designate one of the members appointed by him as chairman of the commission. The commission shall elect a vice-chairman who shall act as chairman and perform all of the duties of the chairman, in the absence of the chairman at any meeting. Officers and employees of the several departments of the city and county may be temporarily detailed by the mayor to assist the commission as required, and in such event shall serve without additional compensation, but no such officer or employee shall be deprived of his regular compensation because of such service with the commission.

(b) The commission shall appoint a city planning director, whose position shall be exempt from the requirements of any civil service or compensation laws, and who shall have full power to administer the affairs of the commission, subject to the direction and approval of the commission. The director shall receive such salary as the commission may provide and for which appropriations have been made by the board of supervisors, and shall hold office at the pleasure of the commission.

(c) The commission may appoint such experts, assistants and clerks as may be necessary to perform the duties of the commission and incur such other expenses as may be necessary and proper, and for which appropriations have been made by the board

of supervisors. Disbursements therefor shall be made by warrants issued on vouchers signed by the chairman or acting chairman."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **H.B. 1157, Act 249.**

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### ACT 250

An Act Amending Chapter 123, Section 123-3.2, Revised Laws of Hawaii 1955, Providing for the Purchase of Construction Machinery and Equipment for the County of Kauai From the Fuel Tax Funds.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Chapter 123, section 123-3.2**, Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new subsection (f) reading as follows:

"(f) The county of Kauai is hereby authorized to expend up to \$25,000 of said fund during any calendar year for the purchase of road constructing machinery and equipment."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **H.B. 1182, Act 250.**

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### ACT 251

An Act Relating to Size and Gross Weight of Power Vehicles and Amending Sections 311-20 and 311-21 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 311-20** of the Revised Laws of Hawaii 1955, is hereby amended by deleting the period at the end of sub-division (b) thereof and by inserting a semicolon and adding the following:

"**provided** that this formula shall not apply to vehicles operating on Territorial highways when 'L' is less than six feet, but the maximum weight allowable in such case shall be thirty-two thousand pounds."

SECTION 2. Section 311-21 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"**Sec. 311-21. Exceptions.** (a) The territorial highway engineer or his representative, in the case of territorial highways, or the county engineer in the case of county roads, may at their discretion upon application in writing and if good cause appears, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles or special mobile equipment of dimensions or weights, including loads or both, which exceed the provisions of Sections 311-19 and 311-20.

(b) The application for any such permit shall specifically describe the vehicle or vehicles and load to be operated or moved and the particular highways over which permit to operate is requested, and whether such permit is requested for a single trip or for continuous operation.

(c) The territorial highway engineer or local authority is authorized to issue or withhold such permit at its discretion; or, if such permit is issued, to limit the number of trips, or to establish seasonal or other time limitations within which the vehicle described may be operated on the highways indicated, or prescribe conditions as to route, equipment or speed, or otherwise to limit or prescribe conditions of operation of such vehicle or vehicles when necessary to assure against undue damage to the road foundations, surfaces or structures, and may require such undertaking or other security as may be deemed necessary to protect the highways and bridges from injury, or to provide indemnity for any injury resulting from such operation. Such permits shall be valid for one year from date of issuance unless an earlier date of expiration is provided by its terms or unless sooner revoked by the issuing authority.

(d) Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection of any peace officer or traffic officer or employee charged with the care or protection of such highways.

(e) The owner of any vehicle or combination of vehicles found operating in violation of the terms or conditions of any permit or over sections of the highway not covered by the permit shall be subject to the penalties provided in Section 311-22.

(f) The restrictions of sections 311-19 and 311-20 shall not apply to the operation of motor vehicles on roads now under the control of the counties where a private individual or corporation actually maintains the county road or roads under an agreement in writing filed with the respective county boards of supervisors. Such agreement shall also provide that such individual or corporation shall repair all damages caused to such roads by vehicles belonging to or under the control of such individual or corporation, and upon the neglect or failure of such individual or corporation to repair such road or roads as provided in such agreement, the county may repair such damages and charge the cost thereof to and collect the same from such individual or corporation.

(g) Nothing in this chapter shall prevent motor vehicles with a width of greater than nine feet, including load, from crossing any public road, street or highway within the Territory.

(h) No provision herein contained shall be so construed as to prevent the passage of ordinances by any county which impose restrictions more severe in nature."

SECTION 3. This Act shall take effect upon its approval.

(Approved June 3, 1957.) H.B. 1212, Act 251.

**ACT 252**

An Act Relating to Civil Service and Classification, Including Compensation and Expenses of Commission Members and Amending Section 3-13 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 3-13 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figure "\$50" as the same appears in line 2 of page 16 of the Revised Laws of Hawaii 1955, and inserting in lieu thereof the figure "\$70".

SECTION 2. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **H.B. 1214, Act 252.**

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**ACT 253**

An Act Relating to the Powers of the Board of Regents of the University of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The board of regents of the University of Hawaii may make regulations governing the traffic and parking conditions on the roadways and other areas under the jurisdiction of the University of Hawaii.

SECTION 2. The board of regents of the University of Hawaii may assess fees for parking on the roadways and in the parking areas under the jurisdiction of the University of Hawaii and may install parking meters on the roadways and in the parking areas under the jurisdiction of the University of Hawaii and may make regulations relating to such assessment of fees for parking and such installation of parking meters.

SECTION 3. The board of regents of the University of Hawaii may enforce the regulations provided for in the foregoing sections by imposing fines in amounts not to exceed \$25.00 for any one violation.

SECTION 4. Proceeds realized from the fines and fees provided for in the foregoing sections shall be deposited in a special fund to be expended at the discretion of the board of regents of the University of Hawaii for the general welfare of the University of Hawaii.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 3, 1957.) **S.B. 897, Act 253.**

**ACT 254**

An Act to Amend Section 3-21 (p) of the Revised Laws of Hawaii 1955, Relating to Exchanges and Transfers of Public Officers and Employees.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** **Section 3-21 (p)** of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"(p) (1) Intragovernmental transfers. Transfers of an employee in the civil service from one position to another position in the same or different class assigned to the same salary range both within and between departments may be made with the approval of the department head or heads and the director as provided by rule.

(2) Intergovernmental exchanges or movements. Provision shall be made for the exchange or movement of civil service employees between the Territory and any county or between counties or between the federal government and the Territory or between the federal government and any county. The following conditions shall govern such exchanges and movements:

(i) All such actions shall require the approval of the department heads and the director or directors.

(ii) All such actions shall be to the same or a closely related class of positions.

(iii) Employees shall be required to meet the minimum qualifications requirements of the class to which they are to be exchanged or moved.

(iv) No employee shall be moved between the Territory or any county or between counties or between the federal government and the Territory or between the federal government and any county to a class for which an appropriate promotional eligible list exists.

(v) The director may require a non-competitive examination of an employee to determine his fitness and qualifications for the class to which such employee is being exchanged or moved.

(vi) No exchange shall be for a period in excess of one year."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved June 3, 1957.) **S.B. 950, Act 254.**



## ACT 255

An Act Relating to Mineral Rights in the Territory of Hawaii, Providing for the Reservation of Such Rights to the Territory in Territorial Lands, the Lease of Such Rights and the Payment of Rentals and Royalties Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Title 12 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto to a new chapter numbered 99A, including new sections numbered 99A-1 to 99A-15, inclusive, to read as follows:

**"CHAPTER 99A. RESERVATION AND DISPOSITION OF GOVERNMENT MINERAL RIGHTS.**

**Sec. 99A-1. Definitions.** In this chapter, if not inconsistent with the context:

(a) 'Minerals' means any or all of the oil, gas, coal, phosphate, sodium, sulphur, iron, titanium, gold, silver, bauxite, bauxitic clay, diaspore, boehmite, laterite, gibbsite, alumina, all ores of aluminum and, without limitation thereon, all other mineral substances and ore deposits whether solid, gaseous or liquid, in, on or under any land; **provided**, that it does not include sand, rock, gravel, and other similar materials commonly used in road construction.

(b) 'Commissioner' means commissioner of public lands.

(c) 'Reserved lands' means those lands owned or leased by any person in which the Territory or its predecessors in interest has reserved to itself expressly or by implication the minerals or right to mine minerals, or both.

(d) 'Territorial lands' includes all public and other lands owned or in the possession, use and control of the Territory of Hawaii or any of its agencies and the provisions of this chapter shall apply thereto, subject to the limitations contained herein, to the extent permitted by the laws of the United States.

(e) 'Occupier' means any person entitled to the possession of land under a certificate of occupation, a right of purchase lease, a cash freehold agreement, or under a deed, grant or patent, and any person entitled to possession under a general lease, and also means and includes the assignee of any one of the above.

(f) 'Force majeure' means any fire, explosion, flood, volcanic activity, seismic or tidal wave, mobilization, war (whether declared or undeclared), act of any belligerent in any such war, riot, rebellion, the elements, power shortages, strike, lock-out, difference of workmen, any cause which prevents the economic mining of the lease, or any other cause beyond the reasonable control of the party affected, whether or not of the nature or character hereinabove specifically enumerated.

(g) 'Mining operations' means the process of excavation, extraction and removal of minerals from the ground, design engi-

neering, other engineering, erection of transportation facilities and port facilities, erection of necessary plants, other necessary operations or research or development approved by the commissioner of public lands preceding or connected with the actual extraction of minerals.

**Sec. 99A-2. Mineral rights reserved to the Territory.**

(a) All minerals in, on or under territorial lands or lands which hereafter become territorial lands are reserved to the Territory; **provided**, that the commissioner may release, cancel or waive such reservation whenever he deems the land use, other than mining, is of greater benefit to the Territory as provided for in section 99A-4. Such minerals are reserved from sale or lease except as provided in this law. A purchaser or lessee of any such lands shall acquire no right, title or interest in or to such minerals. The right of such purchaser or lessee shall be subject to the reservation of all such minerals and to the conditions and limitations prescribed by law providing for the Territory and persons authorized by it to prospect for, mine and remove such minerals, and to occupy and use so much of the surface of the land as may be required for all purposes reasonably extending to the mining and removal of such minerals therefrom by any means whatsoever.

(b) Subject to the provisions of section 99A-2(a), all land patents, leases, grants or other conveyance of territorial land shall be subject to and contain a reservation to the Territory of all such minerals, and shall also contain a reservation to the Territory, and persons authorized by it, of the right to prospect for, mine and remove such minerals by deep mining, strip mining, drilling and any other means whatsoever, and to occupy and use so much of the surface as may be required therefor.

**Sec. 99A-3. Bond; compensation to occupiers.**

(a) Every lessee of a mining lease granted under this chapter and every assignee thereof shall file with the commissioner a bond, in a form and in an amount approved by the commissioner, made payable to the Territory and which shall be conditioned upon the faithful performance by the lessee of all the requirements of this chapter and of the mining lease, and also conditioned upon the full payment by the lessee of all damages suffered by the occupiers hereinunder mentioned. If the Territory sells or leases its mineral rights on land which it or its predecessors in interest have granted or leased, or which it may hereafter sell or lease, and the occupier thereof is damaged due to injury to his crops or improvements of to the surface or condition of his land caused by any mining or other incidental operations, including exploratory work, or by the failure of the lessee of the mining lease to properly restore the land after termination of such operations, such occupier shall be reimbursed the full extent of the damages caused by the mining operations of the lessee so long as the occupier was not granted a mining lease without public auction under the provisions of section 99A-5.

(b) Nothing herein shall be construed to prevent the occupier from demanding and receiving rentals from the lessee of the mining lease or to forbid and prevent the occupier and such lessee from agreeing upon the amount of damages to be paid the occupier and the terms and conditions of payment. The occupier may in writing before or within thirty days after the public auction notify the commissioner that he elects to have the amount of damages and the amount of rentals to be paid as a result of the mining lease determined by arbitration with the successful bidder. In such event, the occupier shall notify the successful bidder of his election to arbitrate, and the arbitration shall proceed in accordance with the provisions of chapter 188 of the Revised Laws of Hawaii 1955. The arbitrators in fixing the amount of damages to be paid to the occupier shall award him the amount which in their judgment shall fairly compensate the occupier for the damages he may suffer to his crops or improvements or to the surface or condition of his land caused by the mining or other incidental operations, including exploratory work, and a reasonable rental for the use of the surface.

**Sec. 99A-4. Mining leases on territorial lands.** If any mineral is discovered or known to exist on territorial lands, any interested person may notify the commissioner of his desire to apply for a mining lease. Such notice shall be accompanied by a fee of \$100 together with a description of the land desired to be leased and the minerals involved and such information and maps as the commissioner by regulation may prescribe. As soon as practicable thereafter, the commissioner shall cause a notice to be published in a newspaper of general circulation in the county where such lands are located, at least once in each of three successive weeks, setting forth the description of the land, and the minerals desired to be leased. The commissioner may hold the public auction of such mining lease within six months from the date of the first publication of notice or such further time as may be reasonably necessary. Whether or not the territorial land sought to be auctioned is then being utilized or put to some productive use, the commissioner, after due notice of public hearing to all parties in interest, within six weeks from the date of the first publication of notice or such further time as may be reasonably necessary, shall determine whether the proposed mining operation or the existing or reasonably foreseeable future use of the land would be of greater benefit to the Territory. If the commissioner shall determine that the existing or reasonably foreseeable future use would be of greater benefit to the Territory than the proposed mining use of such land, he shall disapprove the application for a mining lease of such land without putting the land to auction. The commissioner shall determine the area to be offered for lease and, after due notice of public hearing to all parties in interest, may modify the boundaries of the land areas. At least thirty days prior to the holding of any public auction, the commissioner shall cause

a notice to be published in a newspaper of general circulation in the Territory at least once in each of three successive weeks, setting forth the description of the land, the minerals to be leased, and the time and place of the auction. Bidders at the public auction shall bid on the amount of annual rental to be paid for the term of the mining lease based on an upset price fixed by the commissioner.

**Sec. 99A-5. Mining leases on reserved lands.** If any mineral is discovered or known to exist on reserved lands, any interested person may notify the commissioner of his desire to apply for a mining lease. Such notice shall be accompanied by a fee of \$100 together with a description of the land desired to be leased and the minerals involved and such information and maps as the commissioner may by regulation prescribe. The commissioner may grant a mining lease on reserved lands in accordance with the provisions of section 99A-4, or the commissioner may, with the approval of two-thirds of the members of the board of public lands, without public auction, grant a mining lease on reserved lands to the occupier thereof. Such a mining lease may be granted to a person other than the occupier if the occupier has assigned his rights to apply for a mining lease to another person, in which case only such assignee may be granted a mining lease. If the occupier or his assignee of the right to obtain a mining lease should fail to apply for a mining lease within six months from the date of notice from the commissioner of a finding by the commissioner that it is in the public interest that the minerals on such reserved lands be mined, a mining lease shall be granted under the provisions of section 99A-4; **provided** that bidders at the public auction shall bid on an amount to be paid to the Territory for a mining lease granting to the lessee the right to exploit minerals reserved to the Territory.

**Sec. 99A-6. Exploration.** Any person wishing to conduct exploration on such territorial lands shall apply to the commissioner who shall issue exploration permits upon such terms and conditions as he shall by regulation prescribe; **provided**, that where the territorial lands sought to be explored are located within a forest reserve or are otherwise included within lands under the jurisdiction of the board of commissioners of agriculture and forestry, such permit shall also be approved by the board before the same can be issued. During and as a result of such exploration, no minerals of such types and quantity beyond that reasonably required for testing and analysis shall be extracted and removed from such territorial lands. Upon termination of the exploration permit, the drill logs and the results of the assays resulting from the exploration shall be turned over to the commissioner and kept confidential by the commissioner. If such person shall not make application for a mining lease of such lands within a period of six months from the date such information is turned over to the

commissioner, the commissioner in his discretion need not keep such information confidential.

**Sec. 99A-7. Lease.** Prior to the public auction contemplated in sections 99A-4 or 99A-5, or the granting of mining lease without public auction contemplated in section 99A-5, the commissioner shall cause a mining lease for the land in question to be drawn. Such lease shall describe the land and shall contain, in addition to such other provisions which the commissioner may deem appropriate, provisions to the following effect:

(a) The term of the lease shall be sixty-five years or for a lesser period at the discretion of the commissioner.

(b) The payment of royalties to the Territory shall be fixed by the commissioner; **provided**, that in the case of bauxite, bauxitic clay, gibbsite, diaspore, boehmite and all ores of aluminum, the amount of royalties for each long dry ton of ore as beneficiated shall not be less than twenty-five cents or the equivalent of the price of one pound of virgin pig aluminum, whichever is higher, nor shall it exceed the equivalent of the price of three pounds of virgin pig aluminum; **provided further**, that the rate of royalty for ore processed into aluminous oxide in the Territory shall be set at eighty per cent of the rate of royalty for ore not processed to aluminous oxide in the Territory, and **provided further**, that said royalty shall be fixed at a rate which will tend to encourage the establishment and continuation of the mining industry in the Territory. The prices of virgin pig aluminum for the purpose of determining the royalties hereunder shall be the basic price on the United States market for virgin pig, not refined, f.o.b. factory. Such royalties shall be in lieu of any severance or other similar tax on the winning, beneficiating, handling, storing, treating, or transporting of the mineral or any product into which it may be processed in the Territory, and shall not be subject to reopening or re-negotiating for and during the first twenty years of the lease term.

In the event the lessee desires to mine other minerals, such lessee shall, before mining such minerals, so notify the commissioner in writing, and the commissioner and the lessee shall negotiate and fix the royalties for such minerals.

(c) The lessee shall covenant and agree that the lessee shall commence mining operations upon the leased lands within three years from the date of execution of such lease; **provided**, that so long as the lessee is actively and on a substantial scale engaged in mining operations on at least one such lease on the same minerals, such covenant shall be suspended as to all other leases held by such lessee.

Any interested party may, however, request that a mining lease contain a research period under which the lessees shall be required to expend money in research and development to establish a method to make economical the mining and processing of the

mineral deposits contained in the lease. If the commissioner determines that such research period would be beneficial he shall fix the period of research and shall also fix a minimum expenditure for labor performed or money spent by the lessee in research and development and the method by which the lessee shall establish that such expenditure in fact be made. In such leases, the obligation to commence mining operations within three years shall not commence until the expiration of the research period.

(d) For the period of the lease the lessee shall have the exclusive right of possession of the minerals leased and the exclusive right to mine and remove said minerals by means which shall be reasonable and satisfactory to the commissioner and to occupy and use so much of the surface of the land as may reasonably be required, subject to the provisions of section 99A-3 herein. The right to use the surface shall include the right to erect transportation facilities thereon, construct plants for beneficiating, drying and processing said minerals and such other uses as may be necessary or convenient to the winning and processing of the minerals; **provided**, that the lessee shall comply with all water and air pollution control laws, rules and regulations of the Territory or its political subdivisions.

(e) The lessee may retain all minerals separated from the land as a part of the process of mining the minerals specified in the mining lease; **provided**, that the lease may prescribe the accounting and testing procedures by which the amount and quality of such additional materials shall be determined for the purpose of computing the severance or excise taxes thereon.

**Sec. 99A-8. Number of leases; area covered by lease.** There shall be no limit upon the number of mining leases that may be granted to any person undertaking any mining operations. No lease shall grant and include an area of land exceeding four square miles of contiguous land, in which the longest dimension of the area demised shall exceed its narrowest dimension by more than six times.

**Sec. 99A-9. Deposit; first year's rental.** All bidders shall prior to the date of public auction post with the commissioner a deposit of \$500. The commissioner shall refund to unsuccessful bidders such amount within two days after the auction. All bidders, prior to the auction, shall satisfy the commissioner of their financial ability to conduct mining operations and of their capability to develop a mine. The successful bidder shall pay to the commissioner the amount of the first year's rental within two days after the acceptance of the bid by the commissioner and the \$500 deposit shall be credited against such sum. If the deposit exceeds the first year's rental, the excess shall be refunded. All rentals thereafter are payable in advance once a year.

**Sec. 99A-10. Revocation of mining leases.** A mining lease may be revoked if the lessee fails to pay rentals when due or if any of the terms of the lease or of law are not complied with, or if the

lessee wholly ceases all mining operations for other than reasons of force majeure or the uneconomic operation of such mining lease for a period of one year without the written consent of the commissioner; **provided**, that the commissioner shall give the lessee notice of any default and such lessee shall have six months from the date of such notice to remedy such default.

**Sec. 99A-11. Assignment.** Any mining lease may be assigned in whole or in part, subject to the approval of the commissioner, to an assignee who shall have the same qualifications as any bidder for a mining lease. The assignee shall be bound by the terms of the lease to the same extent as if such assignee were the original lessee. The approval of the assignment by the commissioner shall release the assignor from any liabilities or duties under the mining lease as to the portion thereof assigned except for any liability or duty which arose prior to the approval of such assignment by the commissioner and which remains unsatisfied or unperformed.

**Sec. 99A-12. Acquisition of rights-of-way.** The Territory may, at its discretion, acquire by eminent domain, by negotiation or otherwise, such real property, rights-of-way and interest in, over, across, under, and through any real property which may be necessary for the transportation or communication facilities in connection with any mining operations and may assign, lease or otherwise transfer such property or rights to persons or corporations engaged in mining operations.

**Sec. 99A-13. Surrender of mining leases.** Any lessee of a mining lease, who has complied fully with all the terms, covenants, and conditions of the existing lease, may, with the consent of the commissioner, surrender at any time and from time to time all or any part of a mining lease or the land contained therein upon payment as consideration therefor two years' rent prorated upon the portion of the lease or land surrendered. The lessee shall thereupon be relieved of any future liability or duty with respect to the land or lease so surrendered; **provided**, that nothing herein contained shall constitute a waiver of any liability or duty lessee may have with respect to the land or lease surrendered as a result of any previous activities conducted on such land or under such lease. Upon the termination, cancellation or surrender of any mining lease or any portion thereof, the lessee shall have the right to remove any and all equipment, buildings and plants placed on the land surrendered by the holder of the mining lease. A mining lease may also be surrendered if as a result of a final determination by a court of competent jurisdiction, the lessee is found to have acquired no rights in or to the minerals on reserved lands, nor the right to exploit the same, pursuant to the said lease, and, in such event, the lessee shall be reimbursed for rentals paid to the Territory pursuant to the said lease.

**Sec. 99A-14. Rules and regulations.** Subject to the provisions of sections 7-28 to 7-41 of the Revised Laws of Hawaii 1955, the commissioner may make, promulgate and amend such rules and

regulations as he deems necessary to carry out the provisions of this chapter and to perform his duties thereunder, all commensurate with and for the purpose of protecting the public interest. All such rules and regulations shall be approved by the governor and shall have the force and effect of law.

**Sec. 99A-15. Other use of surface of territorial lands.** Where mining leases are granted on territorial lands, the commissioner may reserve to the Territory the right to lease, sell or otherwise dispose of the surface of the lands embraced within such lease. Such lease, sale or other disposal of the surface, if made, shall be subject to the rights of the holder of the mining lease."

**SECTION 2.** If any provisions of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**SECTION 3.** This Act shall become effective upon its approval by the Congress of the United States. Notwithstanding any provisions of the Hawaiian Organic Act (31 Stat. 141) or of the Revised Laws of Hawaii 1955, the powers, duties, obligations and functions of the commissioner of public lands of the Territory of Hawaii, relating to mining leases or mineral rights belonging to the Territory of Hawaii, shall be governed by the provisions of this Act, as hereby enacted or as it may be duly amended from time to time by the legislature of the Territory of Hawaii.

(Approved June 4, 1957.) **H.B. 14, Act 255.**

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## ACT 256

An Act to Amend Chapter 94 of the Revised Laws of Hawaii 1955, Relating to Wages and Hours.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 94-3 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 94-3. Minimum wages.** During the year commencing July 1, 1957 every employer shall, except as the director may provide pursuant to section 94-9, pay to each employee employed by him wages at the rate of not less than 90 cents an hour in the city and county of Honolulu, and not less than 85 cents an hour in each of the counties of Hawaii, Maui, and Kauai. From and after July 1, 1958 every employer shall, except as the director may provide pursuant to section 94-9, pay to each employee employed by him wages at the rate of not less than \$1 per hour."

**SECTION 2.** Section 94-4 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 94-4. Maximum hours.** (a) No employer shall, except



as otherwise provided in this section, employ any employee —

(1) For a work week longer than 44 hours in any one work week during the year commencing July 1, 1957.

(2) For a work week longer than 40 hours from and after July 1, 1958.

unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.

(b) In the case of an employer engaged in agriculture, and

(1) who is engaged in the processing of milk, buttermilk, whey, skimmed milk, or cream into dairy products, or in the processing of sugar cane molasses or sugar cane into sugar (but not refined sugar) or into syrup, or in the processing of or in canning or packing any agricultural or horticultural commodity, or in handling, slaughtering or dressing poultry or livestock; or

(2) who is found by the director to be engaged in a seasonal pursuit; or

(3) whose agricultural products are processed by an employer who is engaged in such seasonal pursuit or processing operations, the provisions of subsection (a) shall not apply to his employees in any place of employment where he is so engaged during any period or periods of not more than twenty work weeks in the aggregate, as selected by the employer, in any year from and after the yearly period commencing July 1, 1957; **provided**, that no employee shall be employed more than 48 hours in any such exempt work weeks unless such employee receives compensation for his employment in excess of 48 hours in any one work week at a rate not less than one and one-half times the regular rate at which he is employed.

(c) No employer shall employ any employee in split shifts unless all of said shifts within a period of twenty-four hours shall fall within a period of fourteen consecutive hours, except in case of extraordinary emergency."

SECTION 3. **Section 94-2** of the Revised Laws of Hawaii 1955 is hereby amended by adding a paragraph at the end thereof to read as follows:

"'Seasonal pursuit' means one in which it is customary in each year for the volume of employment in such pursuit to be substantially increased during a regularly recurring period or periods of seasonal activity, and in the remainder of the year, owing to climate or other natural conditions, for the volume of employment to be substantially decreased. Periods of seasonal activity shall be considered as 'regularly recurring', within the meaning of this paragraph, notwithstanding that such periods may vary from year to year."

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1957.) **S.B. 17, Act 256.**

**ACT 257**

An Act Relating to Bond From Guardians and Amending Section 338-4 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 338-4 of the Revised Laws of Hawaii 1955 is hereby amended by adding at the end thereof the following paragraph:

"If the guardianship is of the estate of the minor, and the estate consists solely of bonds or deposits of funds, or both, the court may waive bond if the estate bonds and the passbook or other indicia of deposit are placed for safekeeping in such a manner that none of the bonds or funds may be released without specific order of the court."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved June 4, 1957.) **S.B. 140, Act 257.**

**ACT 258**

An Act Amending Sections 317-27 and 317-29 of the Revised Laws of Hawaii 1955 Relating to the Sale of Real Estate by Administrators and Executors and the Confirmation of Such Sale, and Adding a New Section Requiring Confirmation of Sales Made Pursuant to Authority Given by Will.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 317-27 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto the following sentence at the end thereof:

"For the purposes of this section, real property shall include a leasehold interest in real property with an unexpired term of ten years or longer or a leasehold interest in real property together with an option to purchase the leased premises or some part thereof."

**SECTION 2.** Section 317-29 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto, as the second paragraph, the following provisions:

"If a sale being presented to the judge for confirmation is a private sale, the judge shall require a notice of such sale to be posted in an appropriate place in the courthouse of the circuit wherein the matter is pending and also of the circuit wherein the property is located, if they be different, at least fifteen days prior to considering such confirmation, such notice to set forth a description of the property, including the tax key number, the proposed sale price including the terms of payment, a description of any encumbrances thereon, the date of the confirmation hearing and a solicitation for sealed bids thereon or any other

information required by the judge. If a written offer in an amount at least ten per cent or more on the first \$10,000 of the selling price and five per cent more on the amount of the selling price in excess of \$10,000 is made to the judge by a responsible person prior to the hearing of confirmation, the judge shall accept such higher offer and confirm the sale to such person. If more than one such written offer is made to the judge by responsible persons, including the original offerer, the judge shall accept such highest increased bid and confirm the sale to the person making it."

SECTION 3. There is hereby added to chapter 317 of the Revised Laws of Hawaii 1955, a new section to follow section 317-29 to be numbered and to read as follows:

**"Sec. 317-29.5. Sales under direction of will.** When property is directed by a will to be sold, or authority is given in the will to sell property, the executor may sell the same either at public auction or private sale, and with or without notice, as he may determine; but he must make a return of sales and obtain confirmation thereof as in other cases. In either case no title passes unless the sale is confirmed by the court; but the necessity of the sale, or its advisability and benefit to the estate, need not be shown. If directions are given in the will as to the mode of selling, or the particular property to be sold, or the persons eligible to so purchase, or any other specific directions, such directions must be observed."

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1957.) S.B. 245, Act 258.

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### ACT 259

An Act Relating to Circuit Courts: Amending Title 26 of the Revised Laws of Hawaii 1955 by Amending Chapter 215.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 215 of title 26 of the Revised Laws of Hawaii 1955 is hereby amended by amending section 215-4 thereof to read as follows:

**"Sec. 215-4. Other circuits, judges.** The circuit courts of the second and fifth circuits shall consist, each, of one judge, who shall be styled judge of the circuit court of the circuit in which he is located, as, for instance, judge of the circuit court of the second circuit. The circuit court of the third circuit shall consist of two judges, who shall be styled, when there are two, as first and as second judge, respectively, and each as a judge of the circuit court of the third circuit.

There may be one session of the circuit court of the third circuit, or several sessions of such court at the same time, each of

which may be held by one, but not more than one, of the judges, severally. Judgments, orders and proceedings of any session held by any one of the judges shall be as effective as if only one session was held at a time."

SECTION 2. Until funds for the salary of the second judge are appropriated by the Congress of the United States, the salary of such judge shall be paid by the Territory at the rate now or hereafter provided for the judge of the circuit court, third circuit, and sufficient funds to pay said salary are hereby appropriated from the general fund of the Territory not otherwise appropriated.

SECTION 3. There is hereby appropriated out of the general revenues of the Territory, the sum of \$30,000.00 for the purposes of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1957.) **S.B. 847, Act 259.**

### ACT 260

An Act to Amend Section 149-180 of the Revised Laws of Hawaii 1955, Relating to the City Planning Commission of the City and County of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The first sentence of section 149-180 of the Revised Laws of Hawaii 1955, to the semicolon preceding the proviso therein, is hereby amended to read as follows:

**"Sec. 149-180. Commission; appointments; term of office.**  
There shall be a city planning commission for the city and county consisting of nine members appointed by the mayor with the approval of the board of supervisors, and the commissioner of public lands of the Territory who shall sit as an ex-officio member. Each appointive member shall be appointed for a term of five years and shall serve until his successor has been appointed and qualified;"

SECTION 2. This Act shall take effect upon its approval.

(Approved June 4, 1957.) **S.B. 934, Act 260.**

### ACT 261

An Act Relating to Collection Agencies, and Repealing Sections 155-43, 155-44, 155-45, 155-46 and 155-47 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Sections 155-43, 155-44, 155-45, 155-46, 155-47 of the Revised Laws of Hawaii 1955 are hereby repealed.

**SECTION 2.** There is hereby added to the Revised Laws of Hawaii 1955 a new chapter to be appropriately numbered by the Secretary of the Territory reading as follows:

**"CHAPTER [171A]. COLLECTION AGENCIES.**

**Sec. 1. Definitions.** As used in this chapter:

- (a) 'Board' means the collection agency advisory board.
- (b) 'Person' includes an individual, partnership, joint venture, corporation, association, business, trust or any organized group of persons, or any combination thereof.
- (c) 'Collection agency' means: Any person who by himself or through others offers to undertake or holds himself out as being able to undertake or does undertake to collect for another person, claims or money due on accounts or other forms of indebtedness for a commission or a portion of the sums so collected.
- (d) 'Collection agency' includes:
  - (1) Any person using any name other than his own in collecting his own claims with the intention of conveying, or which tends to convey the impression that a third party has been employed.
  - (2) Any person who, in the conduct of his business for a fee, regularly repossesses any merchandise or chattels for another.
  - (3) Any person who operates a pool plan for the liquidation of the indebtedness of another whereby he effects a composition for a debtor with his creditors and distributes a sum of money periodically to two or more creditors on the debtor's behalf.

(e) 'Collection agency' does not include attorneys at law or district court practitioners acting within the scope of their profession, licensed real estate brokers and salesmen residing in this Territory when engaged in the regular practice of their respective profession, nor banks, trust companies, building and loan associations, companies doing an escrow business, individuals regularly employed on a regular wage or salary in the capacity of credit men or in other similar capacity for a single employer who is not a collection agency, for any person doing business subject to public supervision and regulation, and any public officer or any person acting under an order of court.

**Sec. 2. No license issued when.** No license hereunder shall be issued to a person unless:

- (a) He is of the age of twenty years or more;
- (b) He is a citizen of the United States or has declared his intention to so become;
- (c) He has been a resident of the Territory for more than one year prior to the date of application;
- (d) He is a high school graduate or shall prove to the satis-

faction of the board that he possesses the equivalent of a high school education, or is found to be otherwise qualified to operate a collection agency ;

(e) The applicant for a collection agency license, or the renewal thereof, shall apply therefor in writing, under oath, upon blanks furnished by the board, and shall state the full name and residence address of the applicant and the business name and address where he will conduct his collection agency, and in case of a partnership, the full name and residence address of each partner, and in case of a corporation, the full name and residence address of each of its officers and directors.

(f) The individual applicant, or if the applicant is a partnership, then its partners, or if the applicant is a corporation or an association, then its managing officers and directors, have never been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or other similar offenses, or has been disbarred from the practice of law.

(g) The applicant obtains a tax clearance from the Territory of Hawaii and from the county in which the applicant plans to have his principal place of business as a collector.

**Sec. 3. License required.** No person within the purview of this chapter shall act, or assume to act, or advertise, as a collection agency, without a license previously obtained under and in compliance with the provisions of this chapter and the rules and regulations of the board.

**Sec. 4. Bond.**

(a) A bond shall be executed by the applicant, as principal, and by a surety or sureties which may be a corporation, licensed by the Territorial Insurance Commissioner to transact the business of fidelity and surety insurance, running to the Territory and conditioned that the licensee shall faithfully, promptly and truly account and pay within 30 days after the calendar month, to his clients the net proceeds due on all collections made during the calendar month. In addition to any other remedy, every person sustaining any damage resulting from a breach of the conditions of said bond may sue the surety for the recovery of any damages sustained by such person. The bond shall be continuous in form and remain in full force and effect and shall run concurrently with the license period and for any renewals thereof, unless terminated or cancelled by the surety. Such termination or cancellation shall not be effective, however, unless notice thereof is delivered by the surety to the commissioner at least 30 days prior to the date of termination or cancellation. The commissioner shall forthwith give notice thereof to the collection agency affected by such termination or cancellation, which notice shall be by registered or certified mail, with request for return receipt, and shall be addressed to the licensees at the addresses shown on the records of the commissioner. The

license of any licensee shall be suspended upon termination or cancellation of the bond, unless prior thereto, a new bond has been filed with the commissioner. The form of the bond and sufficiency of the surety shall be approved by the commissioner.

(b) The bond of each licensee shall be for \$5,000. However, when an applicant or licensee intends to operate more than one office, under one ownership, one bond shall be equal to the sum of \$5,000 for the first office and \$3,000 for each additional office. In all such cases the board shall determine the facts and set the amount of the bond required.

(c) The form of the bond shall be set and furnished by the board and only on such forms shall the bonds required by section 4(a) of this Act be executed.

#### **Sec. 5. Application; license fees.**

(a) Every applicant for a license under this chapter shall file an application with the commissioner in such form and setting forth such information as may be prescribed or required by the commissioner, and shall furnish such additional information bearing upon the issuance of such license as it shall require. Every application shall be sworn to before an officer authorized to administer oaths. In the case of a partnership, joint venture, voluntary association or corporation, any member or officer thereof may sign the application and verify the same on behalf of the applicant.

(b) All applications shall either be granted or set for hearing within 15 days after the first meeting of the board following the receipt thereof by the commissioner.

**Sec. 6. Place of business and posting licenses.** A licensed collector shall have and maintain a definite place of business in the Territory and shall display therein his collector's license.

#### **Sec. 7. Fees; annual renewals.**

(a) The fee for any license prescribed by this chapter shall be as follows:

(1) License as a collection agency, \$50, if the initial license is obtained between July 1 and December 31; but if it is obtained between January 1 and July 1, the fee for a license valid to the latter date shall be \$25.

(2) Annual renewal of license to act as a collection agency, \$50.

(3) Annual license for each place of business other than the principal one, \$25.

(b) The annual renewal fee shall be paid to the commissioner on or before June 30 of each year. Any licensee who fails to pay his renewal fee before July 1 shall in addition to the regular license fee, be penalized and pay \$1 for each day elapsing between July 1 and the day payment is tendered. The commissioner shall notify the delinquent licensee of his failure to renew his license as provided in this section, within five days

after such delinquency occurs. This notification shall be by registered mail, addressed to the principal place of business of the licensee as shown by the commissioner's records, notifying him of his failure to register. This notification shall state that the licensee's license will be revoked unless application for renewal, a renewal or new bond and payment of the renewal license fee together with the \$1 daily penalty is submitted within twenty days from the date of mailing the notice. Failure to file within the prescribed twenty days shall work an automatic forfeiture of the delinquent license unless just cause is shown for a further extension of time, in which case no further penalty of \$1 per day shall be assessed against the licensee from and after the date such extension is granted by the commission. For good cause the board may waive all or any part of the penalty herein prescribed.

The license certificate mentioned in this section shall be in a form and size prescribed by the commission. Each such license certificate shall show the name of the licensee and his business name and address, the date of expiration of such license and such other information as may be prescribed by the board. While any such license is in force it shall be displayed in a conspicuous place in the outer office of the collection agency.

**Sec. 8. Licensing of persons who are acting as collectors' agencies at time of the act.**

(a) All persons who are required to obtain a license under this chapter, and who, on the effective date of this act, are acting as a collection agency shall be entitled to have issued to them a license without examination and without further qualification by experience and knowledge except as otherwise provided in subsection (b), upon written application being made therefor as provided by section 5 and upon payment of the required license fee prior to October 31, 1957.

(b) All such persons otherwise eligible to receive an initial license as set forth above under subsection (a) but who fail to make application therefor and to pay the required license fee prior to October 31, 1957, shall be eligible to receive a license only upon compliance with all provisions of this chapter.

**Sec. 9. Issuance of pocket card ; by commissioner and licensee.**

(a) The commissioner shall issue a pocket card to each licensee authorized to do a collection business in the Territory of Hawaii and the licensee shall issue a solicitor's pocket card as provided by the board, to each of his solicitors, collectors or repossessors.

(b) This card must be presented by the licensee or employee thereof when contacting prospective clients or any debtor.

(c) Upon termination of a solicitor's or an employee's employment, he shall forthwith surrender his pocket card to his employer.

**Sec. 10. Transfer of license prohibited; exception when. Any**



license granted under this chapter shall not be transferred, **provided**, that upon the death of any natural person who is a licensee the board shall have the right to transfer the license of the decedent to the executor or administrator of his estate for the period of the unexpired term of the license and thereupon the court having jurisdiction of the probate of the estate of said decedent may authorize such executor or administrator to continue the collection business of the decedent, for the benefit of his estate, and upon such terms and conditions as the court may prescribe.

**Sec. 11. Assignability of licenses; procedure upon change of name or business location.** Licenses granted under this chapter are not assignable. Upon change of business name or removal from the location stated in any license issued under this chapter, the licensee shall, within 5 days thereafter present his license and full information regarding the change to the commissioner, who shall issue a new license conforming to the facts and make an appropriate entry in his records.

**Sec. 12. Expiration date of licenses.** All licenses issued under this chapter shall expire on June 30 following the issuance thereof.

**Sec. 13. Annual statement of undisbursed collections.** Each licensee shall, not later than January 31 of each calendar year, file with the commission an annual statement for the preceding calendar year, showing the respective amounts of all clients' money collected by the licensee during the preceding calendar year, which have not been remitted to the customers entitled thereto or which have not been properly accounted for, and showing also the amounts of money which the licensee has on deposit in any bank or in the licensee's possession for the purpose of liquidating any and all amounts due to the clients. This statement shall be under oath.

**Sec. 14. False declarations prohibited.** The wilful making of any false declaration in the annual statement shall constitute sufficient grounds for revocation of the license of the licensee, after hearing and determination as provided in this chapter.

**Sec. 15. Failure to file annual statement.** If the annual statement is not filed as required, the failure to file it shall constitute grounds for the immediate suspension of the license of the licensee so failing to file the statement, and the commissioner shall notify the licensee by registered mail that the license of the licensee shall be suspended upon the expiration of the period of 20 days thereafter unless the annual statement is submitted prior to that time. However, for good cause shown and upon satisfactory proof furnished by the licensee that the failure to file the statement was due to a condition not within his control, or was due to his excusable neglect, the board may permit the filing of the statement at a later date to be fixed by it. If the annual statement is not filed when due, or by such later date as fixed by the board, the board shall revoke the license of the licensee.

**Sec. 16. Statements are confidential.** Any statement of any applicant or licensee required by the terms of this chapter to be

filed with the commissioner shall be confidential and shall not become a public record, but it may be introduced in evidence in any suit, action or proceeding in any court or in any proceeding involving the granting or revocation of the license of any licensee. Any statement relative to the financial affairs of any applicant for a license shall not be revealed by the commissioner to any other members of the board.

**Sec. 17. Investigation of complaints.** The commissioner, or any deputy attorney general designated by him, shall upon the sworn complaint in writing of any person specifying in detail the charges against a licensee, investigate the actions of any licensee, alleged to have violated the provisions of this chapter, and for that purpose only the licensee shall make available to the commissioner, or his deputy, his offices and place of business, books, accounts, records, papers, files, safes and vaults which are necessary to the investigation of that particular complaint.

**Sec. 18. Manner in which records and funds to be kept by licensees:**

(a) Every licensee shall keep a permanent record of all sums collected by him, and of all disbursements, and shall maintain and keep such records and all customers' funds within the Territory of Hawaii. No person shall wilfully make any false entry in any collection agency record, or intentionally mutilate, destroy, conceal or in any way dispose of any such record.

(b) A licensee shall not commingle the money of his clients with his own, but shall maintain a separate trust account for clients' funds.

(c) A licensee shall not collect, or attempt to collect, any collection fee from any debtor unless the debtor has agreed in writing with his creditor, or the licensee, to pay such fee.

**Sec. 19. Reports and payments by agency.** Every collection agency shall, within 30 days after the close of each calendar month, report and pay to his clients the net amount due to each client out of all collections made during the preceding calendar month.

**Sec. 20. Grounds for suspension or revocation of licenses.**

(a) Failure to comply with any provision of this chapter, any lawful order of the board, or any rule or regulation promulgated by the board, is sufficient cause for suspension or revocation of any license issued pursuant to this chapter.

(b) In addition to the penalty hereinafter provided, any license issued under the provisions of this chapter may be revoked by order of the judge of any circuit court wherein the licensee is found guilty of any crime involving moral turpitude.

**Sec. 21. Denial, suspension or revocation of license; procedure; appeal.** The board shall not deny any application for an original or renewal license or initiate any disciplinary action against any licensee except for probable cause. Before denying, suspending or revoking any license, the charges against the licensee shall be

investigated by the commissioner. His findings shall be made known to the board and if the commissioner and at least two other members of the board concur, the matter shall be set for hearing. At least fifteen days prior to the date set for hearing the commissioner shall furnish the applicant or licensee a true copy of the charges against him upon which the contemplated action by the board is based, and a notice in writing of the time and place of the hearing and shall afford the applicant or licensee an opportunity to be heard, in person and by or with counsel, in reference thereto. Such copy of the charges and written notice may be served by delivery personally to the applicant or the licensee or by mailing it by registered mail to the last known business address of the applicant or licensee. The hearing on the charges shall be held at such time and place as the commissioner shall prescribe. The commissioner shall have the power to issue subpoenas and bring before the board any person or relevant book or writing in this Territory; to swear witnesses and take the testimony of any person by deposition, with the same fees and mileage and in the same manner as prescribed by law in judicial proceedings in courts of record of the Territory in civil cases. All evidence shall be under oath. Any party to any hearing shall have the right of subpoena to compel the attendance of witnesses and to cause the production of any books and writings in his behalf. If the board determines that any applicant is not qualified to receive a license, a license shall not be granted, and if the board determines that any licensee is guilty of a violation of any of the provisions of this chapter, his license may be suspended or revoked by the board, **provided** that four members of the board, one of whom must be the commissioner, concur in such determination. Any order denying a license, or suspending or revoking a license, shall include the findings of fact upon which the order is based and shall be rendered no later than 15 days after the conclusion of the hearings. This order shall not be operative for a period of 15 days from the date thereof, and any person aggrieved thereby may appeal during that period to the circuit court of the county in which the applicant resides, or where the licensee has his principal place of business, by giving notice of appeal to the commission and filing such notice with proof of service thereon, in the office of the clerk of said circuit court. The filing of the notice shall supersede the order of the commissioner. Within 15 days from the date of filing the notice, or within such further time as may be granted by the court, the commissioner shall file in the circuit court a transcript of the whole record relative to all matters involved in the appeal. The circuit court shall, sitting as though a court of equity, try the matter anew and enter judgment forthwith based upon all the evidence presented to the court.

**Sec. 22. Action on collection agency bond.** If a collection agency has failed to account for and pay over the proceeds of any collection made, the client shall have, in addition to all other legal remedies, a right of action in his own name on the bond given pursuant to the provisions of this chapter and the total of all re-

coveries from the sureties shall not exceed the face of the bond. Upon entering judgment for plaintiff in any action on the bond required by this chapter, for more than any sum which may have been tendered in court by the defendant, the court shall include in the judgment reasonable compensation for the services of plaintiff's attorney in the action.

**Sec. 23. The commissioner and collection agencies advisory board; appointment, qualifications and terms of members.**

(a) A collection agencies advisory board is hereby created. The board shall consist of five members, three of whom shall be licensees under this chapter, one of whom shall be an individual not licensed under this chapter, and one of whom shall be the attorney general of the Territory who shall be the commissioner of the collection agencies and who may delegate his duties as commissioner or board member to one of his deputies. The commissioner shall be the executive officer of the board and its chairman. Each of the three licensee members of the board must have been for three years before the date of his appointment a licensed operator of a collection agency or have had three years experience as an executive of a collection agency actively engaged in business as such in the Territory. No member of the board shall receive compensation for serving on the board.

(b) Initially the Governor shall appoint two qualified members to the board for a term of one year and two for a term of two years, in the manner prescribed by Section 80 of the Organic Act. Thereafter all regular appointments shall be for terms of two years, and shall be made in the manner aforesaid. The Governor shall fill by appointment the appointee to serve during the unexpired term of his predecessor on the board. No member of the board shall be appointed to a second consecutive regular term.

**Sec. 24. Meetings of board; quorum; effect of vacancy.** The board shall hold meetings for the transaction of business once or more in each period of two months, at the call of the commissioner, at such time and place as he shall designate. A majority of the members of the board shall constitute a quorum for the transaction of any business or for the exercise of any power or for the performance of any duty of the board. In the absence or unavailability of the commissioner, he shall appoint a deputy or an assistant attorney general to preside at the meeting in the capacity of acting commissioner, and such acting commissioner shall have the same authority as the commissioner. A vacancy in the board membership shall not impair the right of the remaining members of the board to exercise any power or to perform any duty of the board, so long as the power is exercised or the duty performed by a quorum of the board.

**Sec. 25. Powers and duties of the commissioner.** The commissioner shall enforce the provisions of this chapter, and he shall have full power to issue collection agency licenses to applicants found

qualified by himself and at least three other members of the board, and to deny, suspend, or revoke licenses for any violation of this chapter which he, and at least three other members of the board have determined that it warrants this action, and to perform all the other acts and duties provided for in this chapter and necessary to its enforcement. The board shall establish and enforce such rules and regulations as may be reasonable and necessary for the enforcement of the provisions of this chapter, and for the examining and licensing of applicants for a collection agency license.

**Sec. 26. Expenses.** Necessary expenses of the board shall be paid by the Territorial auditor upon presentation of vouchers signed by the commissioner.

**Sec. 27. Records of the board; records as evidences; commissioner to sign all papers.** Records of the board shall be kept in the office of the commissioner. Copies of all records and papers of the board certified to be a true copy under the hand and seal of the commissioner, shall be received in evidence in all cases with like effect as the originals. All actions by the board which require publication, or any writing, shall be over the signature of the commissioner or acting commissioner.

**Sec. 28. Publication of a directory.** On or about the first day of September in each year, the commissioner shall cause to be issued a mimeographed or printed directory containing a list of all the collection agencies in the Territory and a copy of this chapter and such other materials as the board shall prescribe, at government expense, and mail a copy to each licensed collection agency and to any other person upon request.

**Sec. 29. Disposition of receipts.**

(a) All fines and penalties provided for in this chapter shall be paid to the commissioner by checks payable to the treasurer of the Territory, which shall be forwarded by the commissioner to the treasurer, and these moneys, together with all license fees and any other fees received from collection agencies, shall be placed in the general fund. All such funds so received and paid to the treasurer, shall be available and constitute an appropriation from the general fund for the payment of the necessary expenses incurred by the board under the provisions of this chapter.

(b) All money remaining in the general fund of the Territory to the credit of the collection agency account shall, on June 30 of each year, except \$500, and except any money which has been collected for licenses issued or to be issued for the succeeding year, be transferred from the collection agency account to the general fund to become available for general governmental purposes.

**Sec. 30. Remedies not exclusive.** The remedies provided for in this chapter are in addition to and exclusive of any other remedies provided by law.

**Sec. 31. Jurisdiction of courts.** The various district courts of the Territory shall have concurrent jurisdiction with the circuit courts in all criminal prosecutions for violations of this chapter.

**Sec. 32. Penalties.**

(a) Violation of any of the provisions of this chapter by an individual is punishable, upon conviction, by a fine of not more than \$500.

(b) Violation of any of the provisions of this chapter by persons other than an individual is punishable, upon conviction, by a fine of not more than \$1,000. Any officer or agent of a corporation or association who personally participates in any violation of this chapter by such corporation is subject to penalties prescribed in subsection (1) of this section."

**SECTION 3.** This Act shall take effect upon its approval, except that no person shall be required to make application for and obtain a license to act as a collection agency prior to August 1, 1957.

(Approved June 4, 1957.) **H.B. 492, Act 261.**

**ACT 262**

**An Act Making an Appropriation to Compensate Edna S. Koike for Property Damages Sustained as a Result of a Broken Water Main on Tenth Avenue, City and County of Honolulu.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** There is hereby appropriated out of the revenues of the board of water supply of the city and county of Honolulu subject to Section 2 herein the sum of \$4,600.00 to be paid to Edna S. Koike to compensate her for damages sustained to her business property and equipment located at 1403 Tenth Avenue, Honolulu, city and county of Honolulu, as a result of a break in the water main fronting said premises.

**SECTION 2.** Notwithstanding any provisions of the law to the contrary, the foregoing sum or any lesser amount thereof is to be paid to Edna S. Koike upon proof of damages established before the Circuit Court of the First Judicial Circuit, **provided** that nothing herein contained shall authorize the commencement of any proceeding after the expiration of 2 years from the effective date of this Act.

**SECTION 3.** This Act shall take effect upon its approval

(Approved June 4, 1957.) **H.B. 777, Act 262.**

**ACT 263**

An Act Making an Appropriation to Compensate Shoji Sekiya for Property Damages Sustained as a Result of a Broken Water Main on Tenth Avenue, City and County of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby appropriated out of the revenues of the board of water supply of the city and county of Honolulu subject to Section 2 herein, the sum of \$203.60 to be paid to Shoji Sekiya to compensate him for damages sustained to his business property and equipment located at 1401 Tenth Avenue, Honolulu, city and county of Honolulu, as a result of a break in the water main fronting said premises.

SECTION 2. Notwithstanding any provisions of the law to the contrary, the foregoing sum or any lesser amount thereof is to be paid to Shoji Sekiya upon proof of damages established before the Circuit Court of the First Judicial Circuit, **provided** that nothing herein contained shall authorize the commencement of any proceeding after the expiration of 2 years from the effective date of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1957.) **H.B. 779, Act 263.**

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**ACT 264**

An Act Making an Appropriation to Compensate the Owners of Kaimuki Market Building for Damages Suffered as a Result of a Break in the Water Main Fronting Said Building.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby appropriated out of the revenues of the board of water supply of the city and county of Honolulu, subject to Section 2 herein, the sum of \$2,000.00 to compensate Yachiyo Baba Sekiya and Janyce Chiyo Maekawa, owners of Kaimuki Market Building situated at 1401 Tenth Avenue, Honolulu, City and County of Honolulu, for damages sustained to said building as a result of a break in the water main fronting said premises.

SECTION 2. Notwithstanding any provisions of the law to the contrary, the foregoing sum or any lesser amount thereof is to be paid to Yachiyo Baba Sekiya and Janyce Chiyo Maekawa upon proof of damages established before the Circuit Court of the First Judicial Circuit, **provided** that nothing herein contained shall authorize the commencement of any preceeding after the expiration of 2 years from the effective date of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1957.) **H.B. 782, Act 264.**

**ACT 265**

An Act Making an Appropriation to Compensate Helen M. Baba for Property Damages Sustained as a Result of a Broken Water Main on Tenth Avenue, City and County of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby appropriated out of the revenues of the board of water supply of the city and county of Honolulu subject to Section 2 herein the sum of \$5,600.00 to be paid to Helen M. Baba to compensate her for damages sustained to her business property and equipment located at 1403 Tenth Avenue, Honolulu, city and county of Honolulu, as a result of a break in the water main fronting said premises.

SECTION 2. Notwithstanding any provisions of the law to the contrary, the foregoing sum or any lesser amount thereof is to be paid to Helen M. Baba upon proof of damages established before the Circuit Court of the First Judicial Circuit, **provided** that nothing herein contained shall authorize the commencement of any proceeding after the expiration of 2 years from the effective date of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1957.) **H.B. 780, Act 265.**

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**ACT 266**

An Act to Amend Section 220-3 of the Revised Laws of Hawaii 1955, Relating to Salaries of District Magistrates.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 220-3** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figures "800.00" and "9,600.00" appearing in the line numbered 52 and substituting in place thereof the figures "842.00" and "10,104", respectively.

SECTION 2. This Act shall take effect on July 1, 1957.

(Approved June 4, 1957.) **H.B. 821, Act 266.**

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**ACT 267**

An Act to Amend Section 218-9 and Section 220-3 of the Revised Laws of Hawaii 1955, Relating to Clerks, Clerk-Reporters and Interpreters, District Court of Honolulu and Their Salaries.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 218-9** of the Revised Laws of Hawaii 1955 is hereby amended by inserting immediately after the word "clerks" appearing in the third line of the second paragraph thereof the following:

" , one or more clerk-reporters, ".



SECTION 2. **Section 220-3** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the last 13 lines thereof and substituting in lieu thereof the following:

"Clerks, reporters and interpreters, district court, Honolulu, (at rates provided under chapter 4):

A chief clerk

A clerk-reporter supervisor

Such other clerks and clerk-reporters as may be needed

A Japanese interpreter

A Filipino interpreter

A Chinese interpreter".

SECTION 3. This Act shall take effect on July 1, 1957.

(Approved June 4, 1957.) **H.B. 822, Act 267.**

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### ACT 268

An Act Relating to the Employment, Compensation and Retirement of a Certain Public Officer and Employee and Her Position; Amending Act 41, Session Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Act 41 of the Session Laws of Hawaii 1955 is hereby amended by amending section 1 thereof to read as follows:

**Section 1.** Olga Sezenevsky may be continued in her present position in the service of the Territory after she reaches the age of seventy years. She shall be employed under contract, and at the rate of pay which, added to any retirement benefits that she might receive or might be receiving, will equal the rate of pay being received by her immediately prior to age seventy, **provided** that any act or joint resolution of the legislature of the Territory relating to the compensation of public employees shall apply to her."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 4, 1957.) **H.B. 959, Act 268.**

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### ACT 269

An Act to Amend Section 179-14 of the Revised Laws of Hawaii 1955 Relating to Investments of Trust Companies.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Subsection (c) (4) of **section 179-14** of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"(4) In notes or bonds secured by a first mortgage or deed of trust upon either improved or productive real estate and improvements thereon, in the Territory, which improvements may be or

include those to be placed thereon by means of the loan; **provided** that in each case, except when such note or bond is taken for the purpose of facilitating the sale of property owned by the trust company, the total amount of the principal of the obligation secured by such mortgage or deed of trust shall not exceed sixty-six and two-thirds per cent of the appraised value of the security over and above all taxes due and assessments which are a lien upon the security or any part thereof; **provided, further**, that subsequent advances may be made for the payment of taxes, special assessments for public improvements, maintenance and repairs, to protect the security under the mortgage or trust deed notwithstanding that the total amount of such principal will thereby be made to exceed sixty-six and two-thirds per cent of such appraised value;”

SECTION 2. Effective date. This Act shall take effect upon its approval.

(Approved June 4, 1957.) H.B. 981, Act 269.

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### ACT 270

An Act Making an Appropriation for the Acquisition of Land and Construction Thereon of Buildings and Improvements for Use by the Bureau of Employment Security, or to Assist in Financing of the Construction of any Building Erected by the Territory of Hawaii or any of its Agencies Wherein Space is Provided for use by the Bureau of Employment Security.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Pursuant to the provisions of the federal Employment Security Administrative Financing Act of 1954, being c. 657, 68 Stat. 668, approved August 5, 1954, there is hereby appropriated from the monies credited to the account of the Territory of Hawaii in the unemployment trust fund the sum of \$81,925.36 for the fiscal year ending June 30, 1957, the sum not to exceed the sum of \$175,000 for the fiscal year ending June 30, 1958, and the sum not to exceed the sum of \$200,000 for the fiscal year ending June 30, 1959; **provided** that the amount of money which the commission of labor and industrial relations shall use from the funds provided under this act in any fiscal year shall not exceed the amount by which (1) the aggregate of the amounts credited to the account of the Territory pursuant to section 903 of the Social Security Act, as amended, during the same fiscal year and the four preceding fiscal years, exceeds (2) the aggregate of the amounts used pursuant to such section 903 and charged against the monies credited to the account of the Territory during any of such five fiscal years.

SECTION 2. The monies appropriated by the provisions of section 1 shall be used by the commission of labor and industrial relations for the purchase of real property and the purchase or erection of a building or buildings thereon for the use of the bureau of employment security or to assist in financing the construction of any building erected by the Terri-

tory of Hawaii or any of its agencies to the extent that space will be provided for and occupied by the bureau of employment security.

SECTION 3. No part of the monies appropriated by section 1 shall be expended hereunder after the close of the 2-year period which begins on the date of enactment hereof. Any unused monies appropriated by section 1 shall revert to this Territory's account in the unemployment trust fund at the earliest practical date, but in no event later than the close of such 2-year period.

SECTION 4. This Act shall take effect on July 1, 1957.

(Approved June 4, 1957.) H.B. 1129, Act 270.

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### ACT 271

An Act to Provide Travel Time Allowances for Employees of Departments of Public Works of the Territory and Counties, Amending Section 5-71.5 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 5-71.5 of the Revised Laws of Hawaii 1955 is hereby amended by adding two new paragraphs to read as follows:

"Employees of the department of public works of the Territory or any county shall be entitled to an allowance of travel time when they are required to report for duty to points of any significant distance away from home or their usual place of employment in the vicinity in which they live.

Every department head of the department of public works of the Territory or any county shall establish rules and regulations governing the determination of a pickup point for an employee required to work on projects or other place of employment which is not his regular and permanent place of employment, including an employee who is assigned to and is required to report for duty on a public highway for maintenance work or other project, and shall allow such travel time to such employee based primarily upon the additional time, if any, reasonably required for the employee to travel from his home to the place where he is to report for duty instead of going from his home to the appropriate central office, base yard, or other regular and fixed quarters of the department which is nearest his home. The department head, in establishing such rules and regulations, shall take into consideration the following factors: the distance between the employee's home and the job site; the estimated time required for traveling; the convenience of the government; and the reasonableness and fairness to the employee."

SECTION 2. It is the intent of this Act that the provisions contained herein are supplementary to and not a limitation on travel time allowed in section 5-71.5 (Act 143, Session Laws of Hawaii 1955). It is the further intent of this Act to cure or rectify the effect of the opinions

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of the attorney general rendered regarding Act 143, Session Laws of Hawaii 1955, dated September 15 and October 10, 1955.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 4, 1957.) **S.B. 490, Act 271.**

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**ACT 272**

An Act Relating to Major Disasters; Making an Appropriation Therefor and Repealing Act 3 of the Special Session Laws of Hawaii 1950.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby created a fund to be known as the "major disaster fund", the moneys from which, or so much thereof as may be necessary, shall be expended by or under the direction of the governor for immediate relief in the event of the occurrence of any major disaster in any part of the Territory. In expending such money, the governor may allot any portion thereof to any agency, officer or employee, federal, territorial or county, for the more speedy and efficient relief of the conditions created by such disaster.

SECTION 2. The governor may determine whether a major disaster contemplated by this Act has occurred and any such determination is conclusive.

SECTION 3. All unexpended balances remaining of the moneys appropriated by Act 3 of the Special Session Laws of Hawaii 1950, are hereby reappropriated to the major disaster fund, and there is hereby appropriated to the major disaster fund sufficient moneys from the general revenues not otherwise appropriated as will from time to time be required to reestablish the said fund at the total of \$500,000; **provided** that the governor may not expend in excess of \$500,000 for immediate relief of any single major disaster.

SECTION 4. Act 3 of the Special Session Laws of Hawaii 1950 is hereby repealed.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 4, 1957.) **S.B. 651, Act 272.**

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**ACT 273**

An Act Amending Section 185-5 of the Revised Laws of Hawaii 1955, Relating to the Use of Funds of Mutual and Fraternal Benefit Societies.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 185-5 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) By amending the first paragraph thereof to read as follows:

**"Sec. 185-5. Same; restrictions on use of funds.** After the organization of any such society is completed and a certificate of compliance with law is granted by the insurance commissioner, the society shall be governed by its administrative board or body in accordance with its constitution and bylaws, but at no time shall such society, except an association or a society organized and operating solely as a nonprofit medical indemnity or hospital service association or society, use more than twenty-five per cent of the payments up to \$100,000 and seven per cent of the payments in excess of \$100,000, received from its members or applicants in the form of admission fee, dues, contributions or assessments of any nature for expenses other than taxes, in connection with the management or operation of such death benefit, or disability, or sick or other benefit funds."

(b) By striking out the figure "5" appearing in line 6 of the second paragraph thereof and inserting therein the figure "10".

SECTION 2. This Act shall take effect upon its approval.

(Approved June 4, 1957.) **S.B. 659, Act 273.**

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#### **ACT 274**

An Act to Amend Section 159-77 (a) (1) of the Revised Laws of Hawaii 1955, Relating to Liquor Prohibitions.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 159-77** (a) (1) of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"(1) Be consumed on any public highway or any public sidewalk."

SECTION 2. This Act shall take effect on its approval.

(Approved June 4, 1957.) **S.B. 696, Act 274.**

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#### **ACT 275**

An Act to Amend Section 267-23 of the Revised Laws of Hawaii 1955, Relating to the Offense of Disturbing Quiet of Night.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 267-23** of the Revised Laws of Hawaii 1955 is hereby amended by substituting the figure "\$100" for the figure "\$10" appearing in the last line thereof.

SECTION 2. This Act shall take effect upon its approval.

(Approved June 4, 1957.) **S.B. 697, Act 275.**

## ACT 276

An Act to Amend Section 123-3.2 of the Revised Laws of Hawaii 1955, Relating to Disposition of Fuel Taxes.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 123-3.2 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 123-3.2. Fuel taxes, disposition.** The 'city and county of Honolulu fuel tax' shall be paid by the tax commissioner into the territorial treasury, and shall, by the territorial treasurer, be paid over to the treasurer of the city and county of Honolulu for deposit into the fund known as the 'highway fund' created by section 130-16.

The 'county of Kauai fuel tax' shall be paid by the tax commissioner into the territorial treasury, and shall, by the territorial treasurer, be paid over to the treasurer of the county of Kauai for deposit into the fund known as the 'highway fund' created by section 130-16.

The 'county of Hawaii fuel tax' shall be paid by the tax commissioner into the territorial treasury, and shall, by the territorial treasurer, be paid over to the treasurer of the county of Hawaii for deposit into the fund known as the 'highway fund' created by section 130-16.

The 'county of Maui fuel tax' collected on account of liquid fuel sold or used on the island of Lanai or sold elsewhere for ultimate use on the island of Lanai, shall be paid by the tax commissioner into the territorial treasury, and shall, by the territorial treasurer, be paid over to the treasurer of the county of Maui for deposit into the fund known as the 'highway fund' created by section 130-16, for expenditure on the island of Lanai. The 'county of Maui fuel tax' collected on account of liquid fuel sold or used on the island of Molokai or sold elsewhere for ultimate use on the island of Molokai, shall be paid by the tax commissioner into the territorial treasury, and shall, by the territorial treasurer, be paid over to the treasurer of the county of Maui for deposit into the fund known as the 'highway fund' created by section 130-16, for expenditure on the island of Molokai. The remainder of the 'county of Maui fuel tax' shall be paid by the tax commissioner into the territorial treasury, and shall, by the territorial treasurer, be paid over to the treasurer of the county of Maui for deposit into the fund known as the 'highway fund' created by section 130-16.

Each of the foregoing taxes shall be expended for the following purposes, for the island for which the tax revenue is specially indicated, or, if none, for the county for which the tax revenue is indicated:

(a) For payment of interest on and redemption of any bonds duly issued or sold on or after July 1, 1951, under the provisions of chapter 139 for the financing or aiding in financing the construc-

tion of highway tunnels, approach roads thereto and highways. Such payments of interest and principal on such bonds when due, shall be first charges on such moneys so deposited in said fund.

(b) For acquisition, designing, construction, reconstruction, improvement, repair, and maintenance of main and general thoroughfares, highways and other streets, street lights, storm drains and bridges, including costs of new land therefor, when expenditures for the foregoing purposes cannot be financed under territorial-federal aid projects.

(c) In the case of the city and county of Honolulu, for payment of the city and county's share in an improvement district initiated by the city and county under the provisions of chapter 153 for an improvement listed in (b) above which is permitted to be constructed under chapter 153.

(d) For the construction of highway tunnels, overpasses, underpasses and bridges, where such improvement cannot be made under territorial-federal aid projects.

(e) For purposes and functions connected with traffic control and preservation of safety upon the public highways and streets.

(f) No expenditure shall be made, out of the revenues paid into any such fund, which will jeopardize federal aid for highway construction."

SECTION 2. All budgetary and proprietary accounts of the "fuel tax fund of the city and county of Honolulu", "fuel tax fund of the county of Kauai", "fuel tax fund of the county of Hawaii, 1st representative district", "fuel tax fund of the county of Hawaii, 2nd representative district", "fuel tax fund of the county of Maui, island of Lanai", "fuel tax fund of the county of Maui, island of Molokai", and the "principal fuel tax fund of the county of Maui", as at December 31, 1957 shall be merged with the budgetary and proprietary accounts of the "highway fund" of the city and county and each county created under section 130-16.

All liabilities and obligations of and warrants outstanding against the "fuel tax fund of the city and county of Honolulu", "fuel tax fund of the county of Kauai", "fuel tax fund of the county of Hawaii, 1st representative district", "fuel tax fund of the county of Hawaii, 2nd representative district", "fuel tax fund of the county of Maui, island of Lanai", "fuel tax fund of the county of Maui, island of Molokai", and the "principal fuel tax fund of the county of Maui", as at December 31, 1957 shall be merged with the liabilities and obligations of and warrants outstanding against the "highway fund" of the city and county and each county created under section 130-16.

The controller of the city and county of Honolulu, and the auditor and the treasurer of each county and the city and county of Honolulu, are hereby authorized and directed to make the necessary changes in their records and procedures to effect compliance with the provisions of this Act.

SECTION 3. This Act shall take effect on January 1, 1958.

(Approved June 4, 1957.) **S.B. 772, Act 276.**

**ACT 277**

An Act Relating to the Charter Commission of the City and County of Honolulu and Amending Chapter 149-A, Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Section 149A-3, Revised Laws of Hawaii 1955, is hereby amended by changing the comma after the word "hereunder" in line 42 thereof to a period and by deleting the words "provided that such study and analysis or charter shall not curtail any of the powers, duties and responsibilities conferred by the legislature on the board of water supply of the city and county of Honolulu." thereafter.**

**SECTION 2. Section 149A-5, Revised Laws of Hawaii 1955, is hereby amended to read as follows:**

**"Sec. 149A-5. Submission of charter to electors.** The commission shall, upon the completion of the charter, submit the charter to the city and county clerk. Upon receipt of the proposed charter, the city and county clerk shall provide for the submission of the proposed charter with the alternative provisions which have been adopted and approved by the board of supervisors to the qualified electors of the city and county of Honolulu for their approval. Such submission shall be at a special election, which shall be called by the mayor for the purpose. Such special election shall be held not less than forty-five (45) nor more than seventy-five (75) days after receipt of the charter by the clerk, **provided**, that if a general election is to be held within one hundred fifty (150) days from the time the proposed charter is received by the clerk, then, and in such event, the charter shall be submitted to the electorate at such general election. The board of supervisors shall appropriate such moneys as may be necessary to defray the expenses of such election.

The commission shall publish, not less than forty-five (45) days before any election, at least once in a newspaper of general circulation within the city and county of Honolulu, a brief digest of the charter proposed by the commission and the alternative provisions proposed by the board of supervisors, together with a statement of the changes in the government of the city and county which would occur as the result of the adoption of either the charter as proposed by the commission or the alternative provisions proposed by the board of supervisors, and a notice to the electorate of the city and county that copies of the proposed charter and alternative provisions are available at the office of the clerk, the charter commission, libraries and schools within the city and county of Honolulu. The commission shall prescribe the form of the ballot to be submitted to the electorate. The general laws and rules governing elections, so far as the same are applicable and not inconsistent herewith shall apply to the election herein referred to."



SECTION 3. Section 149A-6, Revised Laws of Hawaii 1955, is hereby amended to read as follows:

**"Sec. 149A-6. Ratification of charter by legislature; effect.**

Within thirty days after the election held for such purpose, the city and county clerk shall certify a copy of the charter as modified by each provision as has been voted on and approved by a majority of those voting on such charter and shall forward the charter to the secretary of the Territory, who shall submit it to the legislature then in session (if not, to the next session thereof) for ratification. Upon such ratification, the charter shall become the organic law of the city and county of Honolulu and shall supersede any existing charter and all laws affecting the organization and government of the city and county which are in conflict therewith. Notwithstanding the provisions of this chapter or such ratification, there is expressly reserved to the territorial legislature the power to enact all laws of general application throughout the Territory on matters of territorial concern and interest and special laws relating to the fiscal powers of counties and cities and counties, and neither the charter nor ordinances adopted under the charter shall be in conflict therewith."

SECTION 4. This Act shall take effect upon its approval.

(Approved June 4, 1957.) **S.B. 806, Act 277.**

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**ACT 278**

An Act Amending Chapter 180 of the Revised Laws of Hawaii 1955, Relating to Building and Loan Associations.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 180 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) Section 180-3 is hereby deleted in its entirety and the following is substituted therefor:

**"Sec. 180-3. Other definitions.** 'Capital' or 'share capital' or 'book value' means the sum of all share accounts of members at the time outstanding, plus dividends credited to such accounts, less withdrawal payments and any sums lawfully charged against the accounts."

(b) **Section 180-12** is hereby amended by deleting the word "authorized" in paragraph (h) and in the last sentence thereof and substituting the word "subscribed" therefor.

(c) The second paragraph of **section 180-13** is hereby amended to read as follows:

"Original filing fees shall be levied on share capital at the same rate as are levied against other corporations on authorized capital stock. However, on or before May 1, 1958, and at May 1 of each

and every year following incorporation throughout its corporate existence, each association shall remit to the treasurer additional fees on share capital at the same rate as are levied against other corporations on authorized capital stock to represent the increase in share capital, if any, at January 1 preceding. Full credit shall be given at all times for the sum of all such fees paid under this chapter and former laws."

(d) **Section 180-19 (h)** is hereby amended to read as follows:

"(h) Make by-laws, not inconsistent with law, for the management of its property, the election and removal of its directors and officers, the regulation of its affairs, and the issuance, manner of voting, transfer, withdrawal and cancellation of its shares of stock pursuant to law; **provided**, that every member shall be entitled to one vote for each \$100 or fraction thereof of the withdrawal value of his share account, and each borrowing member shall be entitled to one vote in addition to any votes he may have as a shareholder. No member shall cast more than fifty votes."

(e) Paragraph (k) of **section 189-19** is hereby deleted and paragraph (1) thereof is redesignated paragraph (k).

(f) Section 180-38 is amended to read as follows:

"**Sec. 180-38.** Except as limited by the board of directors, capital payments shall be made in such amounts and at such times and in such manner as the by-laws shall provide. Such payments may be considered and are sometimes referred to in this chapter as dues. A passbook or certificate evidencing his account shall be issued to each member on the first payment of dues by him.

Every account shall be subject to a lien in favor of the association for such charges as may be lawfully imposed thereon under the provisions or authority of this chapter, and the by-laws may provide the manner of enforcement of the lien. The members of an association shall not be liable for any unpaid instalments on their accounts, except for guaranty shares. Accounts shall be deemed personal property in the hands of the members, transferable upon the books of the association in such manner as shall be provided in the by-laws."

(g) The second sentence of the first paragraph of **section 180-48** is amended to read as follows:

"No such fee shall exceed two per cent of the payments made for dues or certificates, and in no case shall the aggregate of such fees (except on certificates in the amount of \$1250 or more) charged to any shareholder or investor be in excess of \$25."

(h) The fourth paragraph of **section 180-48** is amended to read as follows:

"A withdrawal fee of not more than two per cent of the book value may be charged on the voluntary withdrawal of any share or investment certificate; **provided**, that the membership fee and the withdrawal fee provided for in this section shall not together

exceed two per cent of the book value of any share or investment certificate.

The payment of a lower rate of dividend or earnings for an instalment account (as may be contemplated and approved by the supervisory authorities under section 180-43), where withdrawals are made prior to maturity instead of at maturity, shall not be construed as a withdrawal fee, nor shall the retention of a portion of credited dividends or earnings on withdrawals made prior to maturity be construed as a withdrawal fee. The payment of such lower rate of dividends or earnings or the retention of a portion of credited dividends or earnings on such withdrawals prior to maturity, as the by-laws, applications, pass books or certificates may provide, is hereby expressly permitted. For shares and investment certificates hereafter issued, where withdrawals are made within three years from date of issuance, such retention shall not exceed one-fourth of credited dividends or earnings."

(i) **Section 180-49** is amended by deleting the fourth paragraph thereof.

(j) **Section 180-50** is amended by deleting the last paragraph thereof.

**SECTION 2.** This Act shall take effect upon its approval.

(Approved June 4, 1957.) **S.B. 861, Act 278.**

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### ACT 279

An Act to Amend Sections 149-76 to 149-78, Inclusive, and Sections 149-81, 149-83 and 149-85, Revised Laws of Hawaii 1955, all Relating to Ordinances and Resolutions of the City and County of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 149-76 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 149-76. Legislative acts of board by ordinance, other legislative acts by resolution; passed how.**

a. By ordinance.

1. Unless otherwise provided by law, every legislative act of the board shall be by ordinance.

2. Every such ordinance shall be initiated as a bill and shall be passed on three readings on separate days, final passage of which shall be by a majority vote of the Supervisors, taken by ayes and noes, with the names of the Supervisors voting for and against entered in the journal.

3. Introduction or first reading of a bill may be by title only.

b. By resolution.

1. Any other act of the board may be by resolution.

2. Unless otherwise provided by law, such resolution may be

passed on one reading, by a majority vote of the Supervisors, taken by ayes and noes, with the names of the Supervisors voting for and against entered in the journal. The reading shall be in full, except by unanimous consent of all Supervisors present, in which case the reading may be by title only.

c. Restriction.

1. No bill or resolution shall be so amended as to change its original purpose."

SECTION 2. Section 149-77 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 149-77. Revision or amendment; codification of ordinances and resolutions; adoption of codes by reference.**

a. Revision or amendment.

No ordinance or resolution shall be revised or amended by reference to its title, but the same, or the section, subsection or paragraph thereof revised or amended shall be re-enacted at length as revised or amended; **provided** that when the amendment consists of adding new sections, subsections, paragraphs or substituting a word, term or number for another word, term or number, it shall be sufficient to enact the new matter alone if reference thereto is made in the title.

b. Codification.

Any ordinances or resolutions of the city and county which have been duly enacted and not repealed may be compiled, consolidated, revised, indexed, including such restatement and substantive change as may be necessary in the interest of clarity, and arranged as a comprehensive code, may be adopted by reference by the enactment of an ordinance for that purpose.

c. Adoption by reference.

Any code, or portions thereof, may be adopted by reference thereto by the enactment of an ordinance for that purpose. Such code, or the portions thereof which are to be adopted need not be published in the manner required for ordinances, but not less than three copies thereof shall be filed for use and examination by the public in the office of the city and county clerk for not less than 10 days prior to the adoption thereof; and notice of the availability of said copies shall be published by the clerk at least 10 days prior to adoption."

SECTION 3. Section 149-78 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 149-78. Title.** Every ordinance or resolution of the board shall embrace but one subject, which subject shall be expressed in its title. If such ordinance or resolution embraces any subject not expressed in its title, only such portion thereof as is not expressed in the title shall be void."

SECTION 4. Section 149-81 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 149-81. Advertisement of certain bills and resolutions.**

a. Bills and resolutions to be advertised before final adoption.

1. Every bill involving the following subjects shall be advertised in the manner provided hereinbelow, in a daily newspaper with the ayes and noes once, at least three days before final action by the board upon the same:

(a) Fixing the assessment for cost of improvements;

(b) Appropriation of public funds;

(c) Imposition of new duty or penalty on the people of the city and county; or

(d) Resolutions authorizing proceedings in eminent domain.

b. Advertising of bills and resolutions.

1. Any other law to the contrary notwithstanding, the advertisement of every bill fixing the assessment for cost of improvements to be levied against benefited properties and owners, shall contain simply a statement of its title, its number and the date of its introduction, a concise description of the private property affected, which description need not be in metes and bounds, a summary of the nature of the improvements, the rate of assessment, and a statement that copies of the said bill are on file in the office of the city and county clerk, for use and examination by the public.

2. Any other law to the contrary notwithstanding, the advertisement of a resolution authorizing the institution of proceedings in eminent domain, shall contain a statement of its title, its number and the date of its introduction, a concise statement of the public purpose for which the property is to be acquired, a concise description of the private property to be taken, which description need not be in metes and bounds, and a statement that copies of the said bill are on file in the office of the city and county clerk, for use and examination by the public.

3. Unless otherwise specifically provided by law, the advertisement of all other bills or resolutions required by law to be advertised before final action thereon, shall contain simply a statement of its title, its number and the date of its introduction, a brief statement of the nature of the bill or resolution, and a statement that copies of the bill or resolution are on file in the office of the city and county clerk, for use and examination by the public.

c. Exception.

Nothing herein shall be deemed to prohibit the board from advertising any bill, ordinance or resolution in full, or prevent the adoption of any revision of the city and county ordinances by incorporating such revision by reference.

d. Readvertisement after material amendment.

If a bill or resolution required by law to be advertised before final action thereon, is amended after advertisement and such

amendment is material, such bill or resolution shall be readvertised once at least three days before final action thereon. The advertisement shall contain simply a statement of the title, number and date of the amended bill or resolution, the nature of the amendment and a statement that copies of the bill or resolution as amended, are on file in the office of the city and county clerk, for use and examination by the public.

e. Traffic regulations; exception.

1. After the enactment of a traffic ordinance prescribing the rights, duties and liabilities, and methods of establishment and markings, covering the following subjects, a resolution having the effect of an ordinance may be adopted by the board, upon one reading and without any advertisement, creating, defining, redefining, eliminating or changing: speed zones, one-way streets, bus stops, safety stops, parking zones, safety zones, loading zones, quiet zones, safety lanes, traffic lanes, crosswalks, traffic lights, other laning or marking of highways and roadways, and highways, roadways, streets and intersections where right or left turns or U-turns may or may not be made; **provided** that:

(a) No person shall be punished for violating any such resolution, or any ordinance to which such resolution refers, as to the matter established by such resolution, unless the stops, speed limits, zones, one-way streets, lanes, marks, or streets or intersections where such turns may or may not be made, are clearly designated by legible markers or signs, and, in the case of lane or lanes, clearly painted on the pavement, and;

(b) Nothing herein contained shall be deemed to prohibit the delegation to the traffic safety commission of the powers specified in subsection 12 of section 149-86.

f. Advertisement of ordinances and resolutions after enactment.

1. All ordinances shall be advertised once in a daily newspaper after enactment, in the same manner as provided hereinabove for advertisement of bills.

2. Unless otherwise provided by law; resolutions of the board need not be advertised, either before or after adoption."

SECTION 5. Section 149-83 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 149-83. Effective date of ordinances or resolutions.** Ordinances and resolutions shall take effect from and after the date provided therein and in the absence of such provision, from and after date of approval thereof by the mayor; **provided**, however, that the effective date of any ordinance or resolution relating to zoning shall be governed by section 149-197."

SECTION 6. Section 149-85 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 149-85. Amendment or repeal.** No ordinance shall be

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amended or repealed by the board except by ordinance, and no resolution shall be amended or repealed by the board, except by resolution, adopted by the board and presented to the mayor for his approval, in the manner hereinbefore set forth."

SECTION 7. This Act shall take effect upon its approval.

(Approved June 4, 1957.) S.B. 910, Act 279.

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**ACT 280**

**An Act to Amend Section 149-5 of the Revised Laws of Hawaii 1955, Relating to Suits By and Against the City and County of Honolulu.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The first paragraph of section 149-5 of the Revised Laws of Hawaii 1955, is hereby amended to read as follows:

"**Sec. 149-5. Suits by and against.** Suits, actions and proceedings may be brought in the name of the city and county for the recovery of any property, money or thing belonging thereto, or dedicated to public use therein, or for the enforcement of any rights of, or contracts with, or ordinances or resolutions of, the city and county."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 4, 1957.) S.B. 955, Act 280.

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**ACT 281**

**An Act Amending Section 330-19 of the Revised Laws of Hawaii 1955 Relating to Age Limits of Female Dance Partners.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 330-19** of the Revised Laws of Hawaii 1955 is hereby amended by inserting immediately prior to the last sentence thereof the following sentence:

"The acceptance or receipt of any of the proceeds of the sale of any article to any male patron of such dance hall by any such female person under eighteen, or by anyone acting on her behalf, shall constitute the receiving of remuneration or compensation within the meaning of this section."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 4, 1957.) S.B. 963, Act 281.

**ACT 282**

An Act Relating to the Abolishment of Capital Punishment.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 291-5 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 291-5. Penalties.** Whoever is guilty of murder in the first degree shall be punished by imprisonment at hard labor for life not subject to parole. Whoever is guilty of murder in the second degree shall be punished by imprisonment at hard labor for any number of years but for a term not less than twenty years."

SECTION 2. **Section 212-14** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the word "death" appearing in line ten thereof and inserting in lieu thereof, the words "imprisonment for life not subject to parole".

SECTION 3. **Section 248-5** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the word "death" appearing in line four thereof and inserting in lieu thereof, the words "imprisonment for life not subject to parole".

SECTION 4. **Section 252-5** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the word "death" appearing in line five thereof and inserting in lieu thereof, the words "imprisonment for life not subject to parole".

SECTION 5. **Section 253-5** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the word "death" appearing in line ten thereof and inserting in lieu thereof, the words "imprisonment for life not subject to parole".

SECTION 6. **Section 253-7** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the word "death" appearing in line two thereof and inserting in lieu thereof, the words "imprisonment for life not subject to parole".

SECTION 7. **Section 256-3** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the words "capital offenses" appearing in line three thereof and inserting in lieu thereof, the words "offenses punishable by imprisonment for life not subject to parole".

SECTION 8. **Section 256-4** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the words "capital in its nature" appearing in line two thereof and inserting in lieu thereof, the words "punishable by imprisonment for life not subject to parole"; and by deleting the words "In all cases not capital" appearing in line twelve thereof and inserting in lieu thereof, the words "Except in cases where the punishment is imprisonment for life not subject to parole, in all cases".

SECTION 9. **Section 256-5** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the word "death" appearing in line two thereof and inserting in lieu thereof, the words "imprisonment for life not subject to parole."

SECTION 10. **Section 258-35** of the Revised Laws of Hawaii 1955



is hereby amended by deleting the words "other than a case in which the death penalty may be imposed" appearing in line two thereof.

SECTION 11. **Section 258-60** of the Revised Laws of Hawaii 1955 is hereby amended by amending line one thereof to read "Sec. 258-60. Sentence."; and by deleting the words "where the punishment is less than capital," appearing in lines two and three thereof.

SECTION 12. **Section 291-3** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the word "death" appearing in line three thereof and inserting in lieu thereof, the words "imprisonment for life not subject to parole".

SECTION 13. **Section 291-4** of the Revised Laws of Hawaii 1955 is hereby repealed.

SECTION 14. This Act shall take effect upon its approval.

(Approved June 4, 1957.) H.B. 706, Act 282.

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### ACT 283

An Act to Provide for the Operation of the Hawaii Institute of Geophysics at the University of Hawaii and Making an Appropriation Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Legislative determination.** The legislature recognizes that increases in population and the standard of living put ever-increasing stress on Hawaii's physical resources; and that this stress can be effectively met only with constantly increasing knowledge and application of knowledge of these resources and their geophysical setting. To the latter end it determines that the Hawaii Institute of Geophysics, created by the board of regents of the University of Hawaii and which has among its objectives the conduct of fundamental and applied research, training, and the dissemination of knowledge in the field of geophysics and physical resources, should be strengthened to accomplish its objectives adequately. Such is the purpose of this Act.

SECTION 2. The following three sections are hereby added to the Revised Laws of Hawaii 1955, to be designated and to read as follows:

**"Sec. 44-44. Geophysics institute; director and staff.** There shall be a Hawaii institute of geophysics at the university. The institute shall be administered by a director to be appointed by the president with the approval of the board of regents of the university, to serve at the pleasure of the president. The director shall appoint the professional members of the staff and other employees. The president and the board of regents shall have the same powers over the institute and its staff as over the university and its faculties.

The institute shall undertake basic research and training in geophysics, and shall disseminate knowledge of geophysics affect-

ing Hawaii, and to the extent its facilities permit, may serve to apply the results of its research to geophysical problems in the Territory.

**"Sec. 44-45. Territorial geophysicists.** The staff of the institute shall include a specialist qualified in geology and one qualified in volcanology, or one qualified in both fields (to be designated as territorial geologist and territorial volcanologist, or territorial geologist and volcanologist, as appropriate), whose duties shall include consultation with territorial officials, departments and agencies concerning possible applications of these fields and research desirable to facilitate such applications. Such other territorial geophysicists may be designated as appropriate in the opinion of the director and the board of regents.

The territorial geophysicists may undertake applied research required in their respective fields by territorial officials, departments and agencies, but their personal conduct of such applied research may be limited by the director, to such an extent as in his opinion, is necessary to ensure the conduct of fundamental research and training required by the long-range interests of the Territory.

**Sec. 44-46. Encouragement of federal assistance.** The governor and the president and board of regents of the university are hereby authorized and requested to take any appropriate action to secure federal assistance in strengthening the institute."

SECTION 3. There is hereby appropriated from the general fund of the Territory the sum of \$50,000, or so much thereof as may be necessary for the operation of the Hawaii Institute of Geophysics during the biennium 1957-59. In subsequent biennia, the university shall include in its budgets amounts required to operate the institute.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 5, 1957.) H.B. 716, Act 283.

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## ACT 284

**An Act Relating to the Coverage of Certain Officers and Employees of the Territory and Local Governments Under the Old Age and Survivors Insurance Provisions of Title II of the Federal Social Security Act as Amended and Amending Part VI of Chapter 6 of the Revised Laws of Hawaii 1955.**

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Declaration of Policy.** In order to extend to employees of the Territory and its political subdivisions and to the dependents and survivors of such employees, the basic protection accorded to others by the old age and survivors insurance system embodied in the Social Security Act, it is hereby declared to be the policy of the legislature, subject to the limitations of this Act, that such steps be taken as

to provide such protection to employees of the Territory and its political subdivisions on as broad a basis as is permitted under the Social Security Act. It is also the policy of the legislature that the protection afforded employees in positions covered by a retirement system on the date their agreement under this Act is made applicable to service performed in such positions, or receiving periodic benefits under such retirement system at such time, will not be impaired as a result of making the agreement so applicable or as a result of legislative enactment in anticipation thereof.

**SECTION 2.** Section 6-190 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

a. By amending subsection (b) thereof to read as follows:

“(b) The term ‘employment’ means any service performed by an employee in the employ of the Territory, or any political subdivision thereof, for such employer except (1) service which in the absence of an agreement entered into under this Act would constitute ‘employment’ as defined in the Social Security Act; or (2) service which under the Social Security Act may not be included in an agreement between the Territory and the Department of Health, Education and Welfare entered into under this Act. Service which under the Social Security Act may be included in an agreement only upon certification by the Governor in accordance with Section 218(d) (3) of that Act shall be included in the term ‘employment’ if and when the Governor issues, with respect to such service, a certificate to the Secretary of Health, Education and Welfare pursuant to Section 6-195.5.”

b. By amending subsection (d) thereof to read as follows:

“(d) The term ‘territorial agency’ means the Secretary of the Territorial Employees’ Retirement System.”

c. By amending subsection (e) thereof to read as follows:

“(e) The term ‘Secretary of Health, Education and Welfare’ includes an individual to whom the Secretary of Health, Education and Welfare has delegated any of his functions under the Social Security Act with respect to coverage under such Act of employees of the States and Territories and their political subdivisions.”

d. By amending subsection (h) thereof to read as follows:

“(h) The term ‘Federal Insurance Contributions Act’ means subchapter A of Chapter 9 of the Federal Internal Revenue Code of 1939 and subchapters A and B of Chapter 21 of the Federal Internal Revenue Code of 1954, as such Codes have been and may from time to time be amended; and the term ‘employee tax’ means the tax imposed by section 1400 of such Code of 1939 and section 3101 of such Code of 1954.”

**SECTION 3.** Part VI of Chapter 6 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the word “department” wherever the same shall therein appear and substituting therefor the words “Secretary of Health, Education and Welfare”.

**SECTION 4.** Section 6-191 of the Revised Laws of Hawaii 1955 is

hereby amended by amending subsection (b) thereof by deleting from the fifth line the words "sections 1400 and 1410 of".

SECTION 5. Part VI of Chapter 6 of the Revised Laws of Hawaii 1955, is hereby amended by adding thereto a new section to be numbered 6-191.5 and to read as follows:

**"Sec. 6-191.5. Division of retirement systems.** The employees' retirement system of the Territory of Hawaii (or such components thereof as may be established by the Governor or his agent pursuant to section 218(d) (6) of the Social Security Act) shall, for the purpose of this Act, be deemed to constitute two retirement systems as provided in, and in accordance with, such section 218 (d) (6) one of which is composed of the members of such system who have expressed a desire to be covered under the Social Security Act and the other of which is composed of the members of such system who have not expressed a desire for such coverage. Upon request of the governing body of any political subdivision operating a retirement system, the membership of its retirement system may likewise be divided."

SECTION 6. **Section 6-191** of the Revised Laws of Hawaii 1955 is hereby amended by adding a new subparagraph thereto to read as follows:

"(f) As modified the agreement shall include all service described in paragraph (d) and may include all service described in paragraph (e) of this section and performed by individuals in positions covered by a retirement system with respect to which the governor has issued a certificate to the Secretary of Health, Education and Welfare pursuant to section 6-195.5."

SECTION 7. **Section 6-192** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the words "tax which would be imposed by section 1400 of" appearing in line 7 thereof and substituting therefor the words "the employee tax which would be imposed by".

SECTION 8. Subsection (b) of **section 6-195** is hereby amended to read as follows:

"(b) It provides that all services which constitute employment as defined in section 6-190 and are performed in the employ of the political subdivision by employees thereof, shall be covered by the Plan, except that it may exclude services performed by individuals to whom section 218(c)(3)(C) of the Social Security Act is applicable;"

SECTION 9. **Section 6-198** is hereby amended by deleting therefrom the words "tax which would be imposed by section 1400 of" appearing in lines 9 and 10 thereof and substituting therefor the words "the employee tax which would be imposed by".

SECTION 10. Part VI of Chapter 6 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new section to be numbered section 6-195.5 and to read as follows:

**"Sec. 6-195.5. Referendum.** With respect to any retirement system of the Territory to which this Act applies or to any retire-

ment system of a political subdivision whose governing body so requests, the Governor is empowered to authorize a referendum, and shall designate an agency or individual to supervise its conduct, in accordance with the requirements of Section 218(d)(3) of the Social Security Act, on the question of whether service in positions covered by a retirement system established by the Territory, or by a political subdivision thereof should be excluded from or included under an agreement under this Act. The notice of referendum required by Section 218(d)(3)(C) of the Social Security Act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or the individual designated to supervise the referendum shall deem necessary and sufficient to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this Act. Upon receiving evidence satisfactory to him that with respect to any such referendum the conditions specified in Section 218(d)(3) of the Social Security Act have been met the Governor shall so certify to the Secretary of Health, Education and Welfare."

**SECTION 11. Administrative Appropriation.** For the purpose of administering the provisions of this Act, including the costs of holding the referendum provided for by section 6-195.5 and the costs of informing the employees affected, there is hereby appropriated from the general revenues of the Territory the sum of \$20,000.

**SECTION 12.** This Act shall take effect upon its approval.

(Approved June 5, 1957.) **H.B. 763, Act 284.**

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### ACT 285

An Act to Amend Section 149-86 of the Revised Laws of Hawaii 1955, Relating to the Powers and Duties of the Board of Supervisors, City and County of Honolulu.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Section 149-86** of the Revised Laws of Hawaii 1955, is hereby amended as follows:

(a) By amending subsection 16 to read as follows:

"16. [**Water works.**] To establish, construct, lease, sublease, build, furnish and maintain water works, except within the Honolulu district; to establish, revise and collect charges for water supplies to customers, except within the Honolulu district. To take over from the Territory existing water works systems, including water rights, pipelines and other appurtenances belonging thereto, and to enlarge, develop and improve the same."

(b) By adding a new subsection to be properly numbered and to read as follows:

"[24A]. [Streets and buildings.] To open, construct, maintain, repair and close streets, highways, roads, alleys, ways, lanes, trails and bridges, as defined in section 142-1, tunnels and other related projects, and to construct, build, rebuild, lease, sublease, rent, furnish, refurnish or repair public buildings, lands or other public property, to be used for public purposes."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 5, 1957.) H.B. 1213, Act 285.

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### ACT 286

An Act Amending Section 130-16 of the Revised Laws of Hawaii 1955, Relating to Disposition of Taxes Deposited in the Highway Fund.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 130-16 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"**Sec. 130-16. Highway fund.** All taxes collected under the provisions of this chapter shall be deposited in a fund to be known as the 'highway fund' and shall be expended in the county in which the taxes are collected for the following purposes: (a) for acquisition, designing, construction, improvement, repair, and maintenance of public roads and highways, including without restriction of the foregoing purposes, costs of new land therefor, of permanent storm drains or new bridges, as well as repairs or additions to storm drains or bridges; (b) for installation, maintenance, and repair of street lights and power, and other charges for street lighting purposes, including replacement of old street lights; (c) for purposes and functions connected with traffic control and preservation of safety upon the public highways and streets; (d) for payment of interest on and redemption of bonds issued to finance highway and street construction and improvements; and (e) in the case of the city and county of Honolulu, for appropriation for the police department up to the sum of \$500,000."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 5, 1957.) S.B. 773, Act 286.

**ACT 287**

An Act to Amend Section 215-18 of the Revised Laws of Hawaii 1955, Relating to the Powers of the Circuit Court Judges at Chambers, by Adding Thereto a New Subsection, Relating to Application for Injunction or Other Relief Submitted by the Territory, or the Various Counties, or the Officers Thereof.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 215-18** of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a new subsection to read as follows:

“(1) To enjoin or prohibit any violation of the laws of the Territory, or of the ordinances of the various counties, upon petition of the Attorney General of the Territory, or the various county attorneys, even if a criminal penalty is provided for violation of said laws or ordinances.”

SECTION 2. This Act shall take effect upon its approval.

(Approved June 5, 1957.) **S.B. 933, Act 287.**

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**ACT 288**

An Act to Authorize the Incorporation of Business Development Corporations for the Purpose of Promoting, Developing and Advancing the Prosperity and Economic Welfare of the Territory.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. As used in this Act, the following words and phrases, unless differently defined or described, shall have the meanings and references as follows:

(1) “Corporation”: A business development corporation created under this Act.

(2) “Financial Institution”: Any banking corporation or trust company, building and loan association, insurance company or related corporation, partnership, foundation, or other institution engaged primarily in lending or investing funds.

(3) “Member”: Any financial institution authorized to do business within the Territory which shall undertake to lend money to a corporation created under this Act, upon its call, and in accordance with the provisions of this Act.

(4) “Board of Directors”: The board of directors of the corporation created under this Act.

(5) “Loan Limit”: For any member, the maximum amount permitted to be outstanding at one time on loans made by such members to the corporation, as determined under the provisions of this Act.

SECTION 2. Any number of persons not less than five, a majority of whom shall be residents of the Territory, who may desire to create a

business development corporation under the provisions of this Act, for the purpose of promoting, developing and advancing the prosperity and economic welfare of the Territory and, to that end, to exercise the powers and privileges hereinafter provided, may be incorporated in the following manner; such persons shall, by articles of incorporation filed with the office of the treasurer of the Territory of Hawaii, under their hands and seals, set forth:

(1) The name of the corporation, which shall include the words "Business Development Corporation".

(2) The location of the principal office of the corporation, but such corporation may have offices in such other places within the Territory and may be fixed by the board of directors.

(3) The purpose for which the corporation is founded, which shall include the following:

The purposes of the corporation shall be to promote, stimulate, develop and advance the business prosperity and economic welfare of the Territory of Hawaii and its citizens; to encourage and assist through loans, investments or other business transactions, in the location of new business and industry in the Territory and to rehabilitate and assist existing business and industry; and so to stimulate and assist in the expansion of all kinds of business activity which will tend to promote the business development and maintain the economic stability of the Territory, provide maximum opportunities for employment, encourage thrift, and improve the standard of living of the citizens of the Territory; similarly, to cooperate and act in conjunction with other organizations, public or private, in the promotion and advancement of industrial, commercial, agricultural and recreational developments in the Territory; and to provide financing for the promotion, development, and conduct of all kinds of business activity in the Territory.

In furtherance of such purposes and in addition to the powers conferred on business corporations by the provisions of chapter 172 of the Revised Laws of Hawaii 1955, the corporation shall, subject to the restrictions and limitations herein contained, have the following powers:

(a) To elect, appoint and employ officers, agents and employees; to make contracts and incur liabilities for any of the purposes of the corporation; provided that the corporation shall not incur any secondary liability by way of guaranty or endorsement of the obligations of any person, firm, corporation, joint-stock company, association or trust, or in any other manner.

(b) To borrow money from the members only, for any of the purposes of the corporation; to issue therefor its bonds, debentures, notes or other evidences of indebtedness, whether secured or unsecured, and to secure the same by mortgage, pledge, deed of trust or other lien on its property, franchises, rights and privileges of every kind and nature or any part thereof or interest therein, without securing stockholder or member approval; **provided**, that no loan to the corporation shall be secured in any manner unless all outstanding loans to the corporation shall be secured equally and ratably in proportion to the unpaid balance of such loans and in the same manner.



(c) To make loans to any person, firm, corporation, joint-stock company, association or trust, and to establish and regulate the terms and conditions with respect to any such loans and the charges for interest and service connected therewith; **provided**, however, that the corporation shall not approve any application for a loan unless and until the person applying for said loan shall show that he has applied for the loan through ordinary banking channels and that the loan has been refused by at least one bank or other financial institution.

(d) To purchase, receive, hold, lease, or otherwise acquire, and to sell, convey, transfer, lease or otherwise dispose of real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations.

(e) To acquire the good will, business, rights, real and personal property, and other assets, or any part thereof, or interest therein, of any persons, firms, corporations, joint-stock companies, associations or trusts, and to assume, undertake, or pay the obligations, debts and liabilities of any such person, firm, corporation, joint-stock company, association or trust; to acquire improved or unimproved real estate for the purpose of constructing industrial plants or other business establishments thereon or for the purpose of disposing of such real estate to others for the construction of industrial plants or other business establishments; and to acquire, construct or reconstruct, alter, repair, maintain, operate, sell, convey, transfer, lease, or otherwise dispose of industrial plants or business establishments.

(f) To acquire, subscribe for, own, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the stock, shares, bonds, debentures, notes or other securities and evidences of interest in, or indebtedness of, any person, firm, corporation, joint-stock company, association or trust, and while the owner or holder thereof to exercise all the rights, powers and privileges of ownership, including the right to vote thereon.

(g) To mortgage, pledge, or otherwise encumber any property, right or thing of value, acquired pursuant to the powers contained in paragraphs (d), (e) or (f), as security for the payment of any part of the purchase price thereof.

(h) To cooperate with and avail itself of the facilities of the Economic Planning and Coordination Authority and any similar governmental agencies; and to cooperate with and assist, and otherwise encourage organizations in the various communities of the Territory in the promotion, assistance, and development of the business prosperity and economic welfare of such communities or of the Territory or of any part thereof.

(i) To do all acts and things necessary or convenient to carry out the powers expressly granted in this Act.

SECTION 3. The articles shall set forth the amount of total authorized capital stock and the number of shares in which it is divided, the par value of each share, and the amount of capital stock with which

it will commence business and, if there is more than one class of stock, a description of the different classes, and the names and post office addresses of the subscribers of stock and the number of shares subscribed by each. The aggregate of the subscription shall be the amount of capital with which the corporation will commence business. The articles of incorporation may also contain any provision consistent with the laws of the Territory for the regulation of the affairs of the corporation or creating, defining, limiting, and regulating its powers. The articles of incorporation shall be in accordance with the provisions of section 172-10 of the Revised Laws of Hawaii, 1955.

SECTION 4. The articles of incorporation become effective from the date said articles of incorporation are filed in the office of the treasurer of the Territory of Hawaii, with such consent, the stock subscribers, their successors and assigns, shall become a body corporate, by the name specified in the articles, subject to amendment and dissolution as provided in this Act. The incorporators shall have the authority and shall perform such acts and things as required by the provisions of this Act, as set forth in section 2 thereof.

SECTION 5. Notwithstanding any rule at common law or any provision of any general or special law or any provision in their respective charters, agreements of association, articles of organization, or trust indentures: (1) All domestic corporations organized for the purpose of carrying on business within the Territory, including without implied limitation any public utility companies and insurance and casualty companies and foreign corporations licensed to do business in the Territory, and all trusts, are hereby authorized to acquire, purchase, hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of any bonds, securities or other evidences of indebtedness created by, or the shares of the capital stock of, the corporation, and while owners of said stock to exercise all the rights, powers and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory authority of the Territory; (2) all financial institutions are hereby authorized to become members of the corporation and to make loans to the corporation as provided herein; (3) a financial institution which does not become a member of the corporation shall not be permitted to acquire any shares of the capital stock of the corporation; and (4) each financial institution which becomes a member of the corporation is hereby authorized to acquire, purchase, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of, any bonds, securities or other evidences of indebtedness created by, or the shares of the capital stock of the corporation, and while owners of said stock to exercise all the rights, powers and privileges of ownership, including the right to vote thereon, all without the approval of any regulatory authority of the Territory; **provided**, that the amount of the capital stock of the corporation which may be acquired by any member pursuant to the authority granted herein shall not exceed twenty per cent (20%) of the loan limit of such member. The amount of capital stock of the corporation which any member is authorized to acquire pursuant to the authority granted herein is in addition to the amount of

capital stock in corporations which such member may otherwise be authorized to acquire.

SECTION 6. Any financial institution may request membership in the corporation by making application to the board of directors on such form and in such manner as said board of directors may require, and membership shall become effective upon acceptance of such application by said board.

Any other law or laws to the contrary notwithstanding, each member of the corporation shall make loans to the corporation as and when called upon by it to do so on such terms and other conditions as shall be approved from time to time by the board of directors, subject to the following conditions:

(1) All loan limits shall be established at the thousand-dollar amount nearest to the amount computed in accordance with the provisions of this section.

(2) No loan to the corporation shall be made if immediately thereafter the total amount of the obligations of the corporation would exceed ten times the amount then paid in on the outstanding capital stock of the corporation.

(3) The total amount outstanding on loans to the corporation made by any member at any one time, when added to the amount of the investment in the capital stock of the corporation then held by such member, shall not exceed:

(a) Twenty per cent (20%) of the total amount then outstanding on loans to the corporation by all members, including in said total amount outstanding, amounts validly called for loan but not yet loaned.

(b) The following limit, to be determined as of the time such member becomes a member on the basis of the audited balance sheet of such member at the close of its fiscal year immediately preceding its application for membership, or, in the case of an insurance company, its last annual statement to the commissioner of insurance: two per cent (2%) of the capital and surplus of commercial banks and trust companies; one per cent (1%) of the total outstanding loans made by a building and loan association; one per cent (1%) of the capital and unassigned surplus of stock insurance companies, except fire insurance companies; one per cent (1%) of the unassigned surplus of mutual insurance companies, except fire insurance companies, one-tenth of one per cent (.1 of 1%) of the assets of fire insurance companies; and such limits as may be approved by the board of directors of the corporation for other financial institutions.

(4) Subject to paragraph three (a) of this section, each call made by the corporation shall be prorated among the members of the corporation in substantially the same proportion that the adjusted loan limit of each member bears to the aggregate of the adjusted loan limits of all members. The adjusted loan limit of a member shall be the amount of such member's loan limit, reduced by the balance of outstanding loans made by such member to the corporation and the investment in capital stock of the corporation held by such member at the time of such call.

(5) All loans to the corporation by members shall be evidenced by bonds, debentures, notes or other evidences of indebtedness of the corporation, which shall be freely transferable at all times, and which shall bear interest at a rate of not less than one-quarter of one per cent (.25 of 1%) in excess of the rate of interest determined by the board of directors to be the prime rate prevailing at the date of issuance thereof on unsecured commercial loans.

SECTION 7. Membership in the corporation shall be for the duration of the corporation; **provided** that

(a) Upon written notice given to the corporation five years in advance, a member may withdraw from membership in the corporation at the expiration date of such notice.

A member shall not be obligated to make any loans to the corporation pursuant to calls made subsequent to the withdrawal of said member.

SECTION 8. The stockholders and the members of the corporation shall have the following powers of the corporation: (a) To determine the number of and elect directors as provided in section 10 hereof; (b) to make, amend and repeal bylaws; (c) to amend the Articles as provided in section 9; (d) to exercise such other of the powers of the corporation as may be conferred on the stockholders and the members by the bylaws.

As to all matters requiring action by the stockholders and the members of the corporation, said stockholders and said members shall vote separately thereon by classes, and, except as otherwise herein provided, such matters shall require the affirmative vote of a majority of the votes to which the stockholders present or represented at the meeting shall be entitled and the affirmative vote of a majority of the votes to which the members present or represented at the meeting shall be entitled.

Each stockholder shall have one vote, in person or by proxy, for each share of capital stock held by him, and each member shall have one vote, in person or by proxy, except that any member having a loan limit of more than one thousand dollars (\$1,000.00) shall have one additional vote, in person or by proxy, for each additional one thousand dollars (\$1,000.00) which such member is authorized to have outstanding on loans to the corporation at any one time as determined under paragraph three (b) of section 6.

SECTION 9. The Articles may be amended by the votes of the stockholders and the members of the corporation, voting separately by classes, and such amendments shall require approval by the affirmative vote of two-thirds of the votes to which the stockholders shall be entitled and two-thirds of the votes to which the members shall be entitled; **provided**, that no amendment of the Articles which is inconsistent with the general purposes expressed herein or which authorizes any additional class of capital stock to be issued, or which eliminates or curtails the right of the treasurer of the Territory to examine the corporation or the obligation of the corporation to make reports as provided in section 13, shall be made without amendment of this Act; and **provided, further**, that no amendment of the Articles which increases the obligation of a member to make loans to the corporation, or makes any change in the principal amount, interest rate, maturity date, or in the security or credit

position, of any outstanding loan of a member to the corporation, or affects a member's right to withdraw from membership as provided in section 7, or affects a member's voting rights as provided in section 8, shall be made without the consent of each member affected by such amendment.

Within 30 days after any meeting at which amendment of the Articles has been adopted, articles of amendment signed and sworn to by the president, treasurer and a majority of the directors, setting forth such amendment and the due adoption thereof, shall be submitted to the treasurer of the Territory, who shall examine them and if he finds that they conform to the requirements of this Act, shall so certify and endorse his approval thereon. Thereupon, the articles of amendment shall be filed in the office of the treasurer of the Territory of Hawaii and no such amendment shall take effect until such articles of amendment shall have been filed as aforesaid.

SECTION 10. The business and affairs of the corporation shall be managed and conducted by a board of directors, a president and treasurer, and such other officers and such agents as the corporation by its bylaws shall authorize. The board of directors shall consist of such number, not less than 3 nor more than 15, as shall be determined in the first instance by the incorporators and thereafter annually by the members and the stockholders of the corporation. The board of directors may exercise all the powers of the corporation except such as are conferred by law or by the bylaws of the corporation upon the stockholders or members and shall choose and appoint all the agents and officers of the corporation and fill all vacancies except vacancies in the office of director which shall be filled as hereinafter provided. The board of directors shall be elected as hereinafter provided. The board of directors shall be elected in the first instance by the incorporators and thereafter at each annual meeting of the corporation, or, if no annual meeting shall be held in any year at the time fixed by the bylaws, at a special meeting held in lieu of the annual meeting. At each annual meeting, or at each special meeting held in lieu of the annual meeting, the members of the corporation shall elect two-thirds of the board of directors and the stockholders shall elect the remaining directors. The directors shall hold office until the next annual meeting of the corporation or special meeting held in lieu of the annual meeting after their election and until their successors are elected and qualified unless sooner removed in accordance with the provisions of the bylaws. Any vacancy in the office of a director elected by the members shall be filled by the directors elected by the members, and any vacancy in the office of a director elected by the stockholders shall be filled by the directors elected by the stockholders.

Directors and officers shall not be responsible for losses unless the same shall have been occasioned by the willful misconduct of such directors and officers.

SECTION 11. Each year the corporation shall set apart as earned surplus not less than ten per cent (10%) of its net earnings for the preceding fiscal year until such surplus shall be equal in value to one-half of the amount paid in on the capital stock then outstanding. Whenever

the amount of surplus established herein shall become impaired, it shall be built up again to the required amount in the manner provided for its original accumulation. Net earnings and surplus shall be determined by the board of directors, after providing for such reserves as said directors deem desirable, and the directors' determination made in good faith shall be conclusive on all persons.

SECTION 12. The corporation shall not deposit any of its funds in any banking institution unless such institution has been designated as a depository by a vote of a majority of the directors present at an authorized meeting of the board of directors, exclusive of any director who is an officer or director of the depository so designated.

The corporation shall not receive money on deposit.

SECTION 13. The corporation shall be subject to the examination of the bank examiners, and shall make reports of its condition not less than annually to said examiners, who in turn shall make copies of such reports available to the treasurer and to the governor, and the corporation shall also furnish such other information as may from time to time be required by the treasurer of the Territory of Hawaii.

SECTION 14. The first meeting of the corporation shall be called by a notice signed by three or more of the incorporators, stating the time, place and purpose of the meeting, a copy of which notice shall be mailed, or delivered, to each incorporator at least five days before the day appointed for the meeting. Said first meeting may be held without such notice upon agreement in writing to that effect signed by all the incorporators. There shall be recorded in the minutes of the meeting a copy of said notice or of such unanimous agreement of the incorporators.

At such first meeting the incorporators shall organize by the choice, by ballot, of a temporary clerk, by the adoption of bylaws, by the election by ballot of directors, and by action upon such other matters within the powers of the corporation as the incorporators may see fit. The temporary clerk shall be sworn and shall make and attest a record of the proceedings. Two-thirds ( $\frac{2}{3}$ ) of the incorporators shall be a quorum for the transaction of business.

SECTION 15. The corporation shall not be subject to any taxes based upon or measured by income which are now or may be hereafter levied by the Territory; and the securities, evidences of indebtedness and shares of the capital stock issued by the corporation established under the provisions of this Act, their transfer, and income therefrom and deposits of financial institutions invested therein, shall at all times be free from taxation within the Territory.

Any stockholder, member, or other holder of any securities, evidences of indebtedness, or shares of the capital stock of the corporation who realizes a loss from the sale, redemption, or other disposition of any securities, evidences of indebtedness, or shares of the capital stock of the corporation, including any such loss realized on a partial or complete liquidation of the corporation, and who is not entitled to deduct such loss in computing any of such stockholder's, member's, or other holder's taxes to the Territory shall be entitled to credit against any taxes sub-

sequently becoming due to the Territory from such stockholder, member, or other holder, a percentage of such loss equivalent to the highest rate of tax assessed for the year in which the loss occurs upon mercantile and business corporations.

SECTION 16. The corporation shall have succession and corporate existence for such period of duration as is agreed upon, which may be perpetual.

SECTION 17. If a corporation organized pursuant to this Act shall fail to begin business within two years from the effective date of its Articles then said Articles shall become null and void. If, within four years from the effective date of this Act no corporation is organized pursuant to this Act, then and in that event, this Act shall become null and void.

SECTION 18. Under no circumstances is the credit of the Territory pledged herein.

SECTION 19. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

SECTION 20. This Act shall take effect upon its approval.

(Approved June 5, 1957.) S.B. 362, Act 288.

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### ACT 289

An Act Providing for the Issuance of Public Improvement Bonds by the Boards of Supervisors of the City and County of Honolulu, County of Hawaii, County of Kauai and County of Maui.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The boards of supervisors of the city and county of Honolulu, county of Hawaii, county of Kauai and county of Maui may issue bonds for public improvements as authorized by the Organic Act and chapter 139 of the Revised Laws of Hawaii 1955, as amended, in an amount not to exceed the legal total indebtedness as provided for by the Organic Act as amended by Public Law 694, 84th Congress, chapter 567—2nd session, and in accordance with the requirements in chapter 139 of the Revised Laws of Hawaii 1955.

SECTION 2. The moneys realized from any bond issue provided for by section 1 of this Act shall be expended for the following public improvements by the following counties in the following amounts:

1. City and County of Honolulu:

- |   |             |
|---|-------------|
| (a) Construction of sewerage systems  | \$5,000,000 |
| (b) Construction of flood control projects  | 1,500,000   |
| (c) Completion of, the improvements to, and the development of certain existing public parks and playgrounds, and for the acquisition, construction |             |

and improvements of new public parks and play-grounds. ( <b>Provided, however,</b> that \$200,000 of the amount herein appropriated shall be expended for the improvement of shower, toilet and dressing room facilities at Ala Moana Park)	2,200,000
(d) War memorial municipal auditorium (This sum to be in addition to that provided by Act 145, Session Laws of Hawaii 1955 for the same project)	2,000,000
(e) Property acquisition, plans, construction, equipping and furnishing suitable facilities for use as headquarters for the Honolulu Police Department and by other municipal agencies	3,500,000
(f) City and County jail (This sum to be in addition to that provided under Item 6 (a) of section 2 of Act 273, Session Laws of Hawaii 1955 for the same project)	800,000
(g) Acquisition of Waikiki Beach and other property	1,500,000
(h) School Improvements (This sum to be in addition to those provided for by section 5a of Act 273 Session Laws of Hawaii 1955, <b>provided</b> that \$300,000 will be used to supplement previous insufficient appropriations for cafeteriums)	5,000,000
(i) Pearl Harbor Basin to Waianae Areas Water System (This item supplements territorial funds appropriated for this project by the 29th Legislature)	3,000,000
	<u>\$24,500,000</u>
2. County of Hawaii:	
(a) Public building	\$2,000,000
(b) Roads	600,000
(c) Water development	500,000
(d) Flood control	500,000
(e) Public parks	250,000
(f) Sewerage systems	141,000
	<u>\$3,991,000</u>
3. County of Kauai:	
(a) Lihue School	\$ 202,000
(b) Lihue School, furniture and equipment	66,000
(c) Kapaa cafetorium	63,000
	<u>\$ 331,000</u>
4. County of Maui:	
(a) Home for Aged	\$ 200,000
5. Except where specified otherwise, where the context requires, the foregoing appropriations shall be deemed to include the preparation of necessary plans, the acquisition of lands and rights of way, improvement and construction.	



SECTION 3. In case the amount specified for any improvement authorized in section 2 shall not be wholly required to complete such improvement, the unrequired balance may, after completion of said improvement or after it is definitely ascertained by the office or offices in charge of the improvement authorized that not more than a specified amount, less than the whole amount authorized, will be required to complete said improvement, be transferred by the board of supervisors concerned to supplement the amount provided for any other improvement or improvements in the county concerned.

SECTION 4. Any provision of this Act or any other territorial law to the contrary notwithstanding, it is expressly provided that, in the event that it is found possible to secure federal funds made available under any Act of the Congress of the United States to be expended in connection with or for the construction of any of the projects or works authorized by any projects or works of this Act (whether or not such item specifically provides for expenditure thereof in connection with federal funds), the proper territorial or county officers, or both, charged with the expenditure of the funds appropriated by such item, shall have power to enter into such undertakings with the proper officers or agencies of the federal government, agree to required conditions, transfer the funds appropriated by this Act to such other officer, officers or agents of the Territory or county (who are hereby given power to expend the same pursuant to the Act) for expenditure thereof, and do and perform such other acts and things as may be necessary or be required by such acts of said Congress or any regulations or requirements of the federal government, as a condition to securing such federal funds for such projects or works.

Any other provision of law to the contrary notwithstanding, any bonds issued under this Act may, with the approval of the mayor of the city and county of Honolulu, the chairman of the county of Hawaii, the county of Kauai, or the county of Maui, be deposited with and pledged to, or be otherwise disposed of to, the United States or any board, agency or instrumentality of the United States government, to secure the repayment, or in actual payment, of any loans or advances made or to be made, under any Act or Acts of the Congress of the United States authorizing such loans or advances, by the United States or any such board, agency, or instrumentality to the Territory for the construction, in whole or in part, of any public works project authorized under this Act or the cost of which, or any portion thereof, would be payable or could legally be paid out of the proceeds of such bonds if sold.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 5, 1957.) S.B. 577, Act 289.

### ACT 290

An Act Amending Chapter 338 of the Revised Laws of Hawaii 1955, Relating to the Appointment of Guardians.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 338-10** of the Revised Laws of Hawaii 1955 is hereby amended by adding at the end thereof, the following new paragraph:

"It is provided, however, that in any case involving a person who is in a comatose state, the notice above provided to such person need not be given if the attending physician endorses the application for guardianship."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 5, 1957.) **S.B. 601, Act 290.**

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### ACT 291

An Act Relating to the Finances of the Territory, Amending Act 2, Special Sessions Laws of Hawaii 1956.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Paragraph 1, **Section 5** of Act 2, Special Session Laws of Hawaii 1956, is hereby amended by deleting therefrom the item "Special Compensation and Accident Prevention Fund, Symbol S — 6609.....\$58,226".

SECTION 2. The said sum of \$58,226 is hereby reappropriated and restored to said special compensation and accident prevention fund.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1957.) **S.B. 731, Act 291.**

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### ACT 292

An Act Amending Act 401 of the Session Laws of Hawaii 1949, as Amended, to Reappropriate Certain Unencumbered Balances of Appropriations thereunder to the Kauai Waterworks Department.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. All unencumbered balances of appropriations made by items 50 through 64 of Act 401 of the Session Laws of Hawaii 1949, as amended, are hereby reappropriated to the Kauai waterworks department for public improvements.

SECTION 2. This Act shall take effect upon its approval.

(Approved June 5, 1957.) **S.B. 833, Act 292.**

**ACT 293**

An Act to Amend Section 159-45 of the Revised Laws of Hawaii 1955,  
Relating to Liquor Licenses.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 159-45** of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto a subsection "(e)" to read as follows:

"(e) To any applicant for a dispenser or cabaret license whose premises are situated within five hundred feet of any church or school building or buildings; **provided**, that this provision shall not apply to licensees presently licensed or to their transferees in the same location or to applications on file as of the effective date of this Act."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 5, 1957.) **H.B. 383, Act 293.**

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**ACT 294**

An Act Relating to Public Improvements, Amending Act 251 of the Session Laws of Hawaii 1941, Amending Act 280 of the Session Laws of Hawaii 1953, and Amending Act 273 of the Session Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 1** of Act 251 (Series E-320) of the Session Laws of Hawaii 1941, as amended, is hereby further amended by substituting for the words and figures therein reading:

"Construction of Kauai veterans memorial hospital" \$25,000.00,"  
the following words and figures:

"Construction of Kauai veterans memorial hospital and for the purchase of equipment incidental thereto or necessary for the operation thereof" \$25,000.00."

SECTION 2. **Section 2(a)** of Act 280, Session Laws of Hawaii 1953, as amended, is hereby further amended in the following respects:

(a) By amending item 7(j) thereof, to read as follows:

"7(j) For any school or schools in the county of Maui, including any school designated herein, as determined by the board of supervisors" \$793,000"

(b) By deleting therefrom the following items and appropriations:

"7(c) New Popohaku School	\$240,000
7(d) New Kahului School	220,000
7(h) Kahului School Cafetorium	55,000

7(k) Hamakuapoko School	45,000
7(l) Kahakuloa School	28,000
7(m) Kaunoa School	150,000"

(c) By redesignating items "7(e)", "7(f)", "7(g)", "7(i)", and "7(j)" thereof, to read "7(c)", "7(d)", "7(e)", "7(f)" and "7(g)"; respectively.

SECTION 3. Act 273 of the Session Laws of Hawaii 1955, is hereby amended by amending items (a), (b), (c) of subparagraph 2 of section 1 (a) so that the same shall be combined into a single item to read as follows:

"(a) Honolulu Vocational School Foods Building, Honolulu Vocational School Classroom Building, Honolulu Vocational School Shop Building, \$369,000."

SECTION 4. If any section, sentence, clause, or phrase of this Act is held to be unconstitutional or invalid, the remaining portions of this Act shall not be affected. The legislature hereby declares that it would have passed this Act, and each and every section, sentence, clause or phrase or part thereof, despite the fact that any one or more sections, sentences, clauses or phrases or parts thereof be declared unconstitutional or invalid.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 5, 1957.) **H.B. 617, Act 294.**

## ACT 295

An Act Relating to Appropriations for Capital Expenditures and the Lapsing Thereof.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The following appropriations and balance of appropriations are hereby lapsed:

Act 306, SL 1941, flood control at Hanapepe, Kauai \$48,524.75

Act 205, SL 1947

Item 9 - Maui Vocational School	754.95
Item 10 - Agriculture & Forestry Building	1,718.47
Item 11 - Honolulu Detention Home	12,302.27
Item 14 - Leahi Hospital, Honolulu	263,887.61

Act 401, SL 1949

Item 10 - Archives Building	1,281.84
Item 12 - Aquarium and Equipment	5,916.80
Item 24 - Maui Library New Wing	13,092.98
Item 25 - Tax Office and Health Building	2,685.07
Item 26 - Kauai Vocational School	209.64

APPROPRIATIONS, CAPITAL EXPENDITURES  
KAUAI FIRE STATIONS

ACTS 295-296

Act 321, SL 1951	
Item 43 - Armory at Lyman Field	57.39
Item 44 - Maui High School	37.04
Act 280, SL 1953	
Item 1 (a) Waimano Home	144.77
Item 1 (e) U.H. - Hilo Branch	751.60
Item 2 (g) Cafeteria - Waialua High School	522.73
Item 2 (h) Cafeteria - Maemae School	2,452.84
Item 2 (i) Flood Control, Kiki and Paukuwila Streams	11,079.42
Item 2 (j) Flood Control, Moiliili Stream Channel	39,179.48
Item 2 (l) Lights and Fences	
(1) Castle High School	4.96
(2) Kahuku High School	660.88
(3) Waialua High School	.61
(4) Wahiawa High School	679.53
(5) Waipahu High School	42.79
(6) Waipahu Elementary School	9,393.71
(7) Street lights at Kipapa	31.95
(8) August Ahrens School	7,534.02
Item 3 (e) Waiohuli Keokea Drainage	616.01
Item 3 (j) Lahaina Library	551.57
Item 5 (o) Kona Agriculture Extension Office	3,265.67

SECTION 2. The unexpended balances of all other appropriations for capital expenditures authorized by Act 227, SLH 1943; Act 205, SLH 1947; Act 401, SLH 1949; Act 18, SLH 1949; Act 55, SLH 1949; Act 321, SLH 1951; Act 135, SLH 1953; Act 211, SLH 1953; Act 254, SLH 1953; Act 280, SLH 1953; and other appropriations hereafter authorized shall lapse as soon as the purpose for which the one made has been accomplished or two years after July 1, 1957 if no expenditure has been made during the fiscal year ending June 30, 1959, whichever is sooner, after allowing for obligations incurred and encumbered by the auditor.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1957.) **H.B. 995, Act 295.**

### ACT 296

An Act Relating to the County of Kauai Regarding Regular and Voluntary Fire Stations, the Employees Thereof and Amending Chapter 147 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 147 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto two new sections to read as follows:

**"Sec. 147-36.5. Regular fire stations.** There shall be three regular fire stations in the county of Kauai to be located as determined by the chief engineer, subject to the approval of the board of supervisors, and to which shall be assigned such assistant engineers and other personnel as are necessary, subject to the provisions of section 147-36.

**Sec. 147-36.6. Volunteer fire stations.** The chief engineer may establish and organize such volunteer fire fighting stations in the county as are deemed necessary, subject to the approval of the board of supervisors. Equipment for the volunteer fire fighting stations shall be furnished by the county. Such volunteers to serve as firemen as are deemed necessary may be selected by the chief engineer to operate the fire fighting equipment of such volunteer fire fighting stations. All volunteers shall be compensated for services rendered as firemen at a rate to be set by the board of supervisors."

**SECTION 2.** The reduction in the number of regular fire stations from the present seven to the three mandated by this Act shall be gradual, the speed of the reduction being left to the discretion of the board of supervisors. No employee of the Kauai fire department shall be dismissed because of the reduction provided for in this Act; nor shall any new employee be employed to fill any vacancy in the Kauai fire department during the interim period when the number of regular fire stations is being reduced to three, unless absolutely necessary. During this interim period, the chief engineer shall have the discretion to shift personnel among the various regular fire stations, subject to the approval of the board of supervisors, but the personnel so shifted shall not suffer any decrease in pay grade.

**SECTION 3.** This Act shall take effect upon its approval.

(Approved June 5, 1957.) **H.B. 1025, Act 296.**

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### ACT 297

An Act Authorizing Suit Against the Territory of Hawaii on the Claim of Chica Ishii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** The immunity of the Territory of Hawaii to suit is hereby waived as to a cause of action on the claim of Chica Ishii for automobile property damages incurred on or about November 18, 1956, and caused from an alleged wrongful construction of a driveway by the Territory, and suit on such claim is hereby expressly authorized; **provided**, that nothing contained herein shall be construed as an admission of liability on the part of the Territory; and **provided further**, that nothing contained herein shall prohibit or prevent the Territory from settling such claim of Chica Ishii out of court.

SECTION 2. The claimant, Chica Ishii, shall commence the action authorized by this Act in the circuit court of the fifth circuit of the Territory within two years from the effective date of this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1957.) **H.B. 976, Act 297.**

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### ACT 298

An Act Relating to the Raising of Rabbits or Belgian Hares, and Providing Penalties.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Any person who breeds, raises or keeps rabbits or Belgian hares shall keep them off the ground.

SECTION 2. Any person who violates the provisions of this Act shall be fined not more than \$100 or be imprisoned for not more than six months, or both.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 5, 1957.) **S.B. 676, Act 298.**

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### ACT 299

An Act Relating to Industrial and Reformatory Schools and Industrial Schools and Amending Chapter 80 and Section 333-6 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The words "industrial and reformatory school," "industrial and reformatory schools", "industrial school" and "industrial schools", referring to the schools managed and controlled by the department of institutions of the Territory, wherever used in the Revised Laws of Hawaii 1955 and in any Session Laws of Hawaii, are hereby amended by substituting therefor the words "training school" or "training schools".

SECTION 2. In conformity with but without limitation of section 1 hereof, the words "training school" or "training schools" are hereby substituted for the words "industrial and reformatory school", "industrial and reformatory schools", "industrial school" and "industrial schools" in chapter 80 of the Revised Laws of Hawaii 1955 and in the sections thereof, as follows:

(a) Chapter 80 in its title;

(b) **Section 80-2** in the first, second, third, eighth, ninth, twelfth and thirteenth lines thereof;

(c) **Section 80-5** in the fourth line thereof;

- (d) **Section 80-7** in the second line thereof;
- (e) **Section 80-8** in the first and second lines thereof;
- (f) **Section 80-9** in the fourth line thereof;
- (g) **Section 80-11** in the fourth line thereof;
- (h) **Section 80-12** in the eighth line thereof;
- (i) **Section 80-13** in the fifth line thereof;
- (j) **Section 80-14** in the second and third lines thereof;
- (k) **Section 80-15** in the second and eighth lines thereof;
- (l) **Section 80-16** in the second and third lines thereof;
- (m) **Section 80-17** in the third line thereof;
- (n) **Section 80-18** in the third line thereof;
- (o) **Section 80-23** in the third line thereof;
- (p) **Section 80-24** in the third line thereof;
- (q) **Section 80-25** in the fifth and sixth lines thereof;
- (r) **Section 80-26** in the third line thereof;
- (s) **Section 80-27** in the third and fourth lines thereof;
- (t) **Section 80-28** in the third line thereof;
- (u) **Section 80-29** in the sixth line thereof;
- (v) **Section 80-30** in the fourth line thereof;
- (w) **Section 80-31** in the third and fifteenth lines thereof;
- (x) **Section 80-32** in the third, ninth and tenth lines thereof;
- (y) **Section 80-33** in the third and fourth lines thereof.

**SECTION 3.** In further conformity with but without limitation of the foregoing sections of the Act, **section 333-6** of the Revised Laws of Hawaii 1955 is hereby amended by substituting for the words "industrial school" in the first, twenty-fifth, twenty-sixth and thirty-third lines thereof, the words "training school".

**SECTION 4.** This Act shall take effect upon its approval.

(Approved June 5, 1957.) **S.B. 755, Act 299.**

## ACT 300

An Act Relating to the Possession of Firearms and Ammunition and Amending Section 157-6 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Section 157-6 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 157-6. Place to keep firearms; loaded firearms, when prohibited.** Except as provided in sections 157-5 and 157-9, the possession of all firearms and ammunition shall be confined to the possessor's place of business, residence, or sojourn, but it shall be lawful to carry firearms or ammunition, or both, in a wrapper or other suitable container from the place of purchase to the purchaser's home, place of business, or place of sojourn, or between these places upon change of place of business, abode, or sojourn, or between such places and a place of repair or a target range.



It shall be unlawful for any person to have in his possession or to carry on any public highway any firearm loaded with ammunition; **provided**, however, the provisions of this paragraph shall not apply to any person who shall have in his possession or carry a pistol or revolver and ammunition therefor in accordance with a license or permit issued, as provided in section 157-9."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 5, 1957.) **S.B. 795, Act 300.**

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### ACT 301

An Act Relating to Investment Banking and Amending Chapter 178 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 178 of the Revised Laws of Hawaii 1955 is hereby amended by adding new sections following section 178-11, to be numbered sections 178-11.1 to 178-11.4 and to read as follows:

"**Sec. 178-11.1 Investment bankers.** The restrictions provided in section 188-11 against the use of any letterheads or circulars having thereon any word or words indicating that the user is engaged in any banking business notwithstanding, any person engaged in the underwriting, financing and sale of securities in a bona fide capacity as an investment banker may use the terms 'investment banker' or 'investment banking' in his letterheads and circulars, provided such person complies with the requirements set forth in section 178-12 and the Investment Advisers Act of 1940 (**provided** that nothing herein contained shall be construed to give any person special powers conferred by law upon banking corporations constituted under the laws of the Territory or operating thereunder). The term 'investment banker' shall not include any bank or insurance company; any savings and loan associations, building and loan association; any receiver, liquidator or similar official or person, or any person engaged in the transacting of securities for his own account.

**Sec. 178-11.2. Application, license, fee.** Every person engaged in a bona fide capacity as an investment banker and using the term or terms provided in the foregoing section shall first make application to the treasurer of the Territory who shall prescribe the form of application for such license. Such application shall include, among other things, the name and business address of the person residing within the Territory upon whom legal notice and process, or notice from officials of the Territory may be served. If such applicant be a corporation, all information relative to corporations, domestic or foreign, as may be prescribed by the treasurer shall be provided. Such license shall be granted by the treasurer to any person meeting the requirements of this part and deemed

to be qualified under the terms of the foregoing section, upon the payment to the treasurer of an annual license fee of \$100.00.

**Sec. 178-11.3. Treasurer examinations, powers.** The treasurer of the Territory or his deputy or examiner may examine the accounts, books and papers of any person licensed as heretofore provided, and may take any action set forth in sections 178-11 and 178-12 relating to capital impairment. He is directed and empowered to make all necessary and appropriate rules and regulations governing the use of the terms 'investment banker' and 'investment banking' by any person and the conduct of business by such person.

**Sec. 178-11.4.** The term 'person' means an individual, a corporation, a partnership or a joint-stock company doing business in the Territory of Hawaii."

**SECTION 2.** This Act shall take effect upon its approval.

(Approved June 6, 1957.) **H.B. 867, Act 301.**

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### ACT 302

An Act to Amend Chapter 160, Part V, of the Revised Laws of Hawaii 1955, Relating to Licensing of Motor Vehicle Dealers and Salesmen, and to Add Provisions Relating to Licensing of Motor Vehicle Brokers and Brokers' Agents.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Chapter 160, Part V of the Revised Laws of Hawaii, 1955, is amended in the following particulars and respects:

1. By amending those certain paragraphs of **section 160-160** thereof defining "motor vehicle", "new motor vehicle", "engage in business", "retail sale", "board", "dealer", and "salesman", by adding new paragraphs thereto defining "sale", "wholesale", "broker", and "broker's agent", and by amending the last paragraph of said section so that said amended and new paragraphs will read as follows:

'Motor vehicle' includes any vehicle, motor vehicle or truck as defined in sections 130-1 and 130-2, with the exception of tractors and trailers.

'New motor vehicle' means a motor vehicle which (i) has not previously been sold to any person except a distributor or dealer for resale and (ii) has not previously been registered or titled except in the name of its manufacturer, distributor, or licensed new motor vehicle dealer, or in the name of a lender solely for the purpose of financing such manufacturer, distributor or dealer and (iii) has not previously been driven more than 500 miles.

'Engage in business', 'engaging in business' and equivalent expressions, mean commencing, conducting, or continuing in,

holding oneself out by advertising, or any other means as being in, a business, as well as liquidating a business when the liquidator thereof holds himself out to be conducting such business. However, making or negotiating a casual or isolated sale or purchase is not engaging in business, but the sale or negotiation for the purchase by any person during any period of one year of more than three motor vehicles (except as an incident to the established business of a seller) shall be presumptive evidence that the person negotiating for, or effecting such sale or purchase is engaging in the business of selling or negotiating the purchase of motor vehicles and that, if unlicensed pursuant to this part, the person negotiating for, or effecting such sale or purchase is violating section 160-161.

'Sale', 'selling', and equivalent expressions, mean the act or attempted act, either as principal or an agent or in any capacity whatsoever, of selling, bartering, exchanging or otherwise disposing of, or negotiating, or offering, or attempting to negotiate, the sale, purchase or exchange of, or any interest in, a motor vehicle.

'Retail', 'sale at retail', 'retail sale', and equivalent expressions, mean the act or attempted act of selling a motor vehicle to a person for use as a consumer.

'Wholesale' or 'sale at wholesale' or 'wholesale sale' and equivalent expressions, mean any sale other than a retail sale.

'Board' means the motor vehicle dealers', salesmen's, brokers', and brokers' agents' licensing board, defined and created by this part.

'Dealer' includes any person, not expressly excepted by this section or by section 160-166, who is engaged in the business of selling, displaying, offering for sale, exchanging, buying or otherwise dealing in, or offering or attempting to negotiate sales, purchases or exchanges of, motor vehicles or any interest therein, whether or not such motor vehicles are owned by such person. 'New motor vehicle dealer' means a dealer who engages in the business of selling at wholesale or retail, or both, new motor vehicles or new and used motor vehicles. 'Used motor vehicle dealer' means a dealer who engages in the business of selling at wholesale or retail, or both, only used motor vehicles.

'Salesman' includes any person who, as his principal occupation, for a commission, compensation or other valuable consideration, is employed, either directly or indirectly, by a dealer to sell, display and offer for sale, or deal in, or otherwise engage in the business of selling at retail, motor vehicles.

'Broker' includes any person who is engaged in the business of offering or attempting to negotiate the purchase of motor vehicles or any interest therein where title to such motor vehicles will not pass through such person.

'Broker's agent' includes any person who, as his principal occupation for a commission, compensation or other valuable consideration is employed, either directly or indirectly, by a broker

to engage in the business of negotiating or arranging for the purchase of motor vehicles.

The term 'dealer' does not include:

(a) Insurance companies, finance companies, public officials, or any other person coming into possession of motor vehicles in the regular course of business, who shall sell such motor vehicles under a contractual right or obligation, or in performance of an official duty, or authorization of any court, provided such sale is for the purpose of saving the seller from loss or pursuant to the authorization of a court of competent jurisdiction.

(b) Persons, not engaged in the purchase or sale of motor vehicles as a business, disposing of motor vehicles acquired for their own use or for use in their business when the same shall have been so acquired and used in good faith and not for the purpose of avoiding the provisions of this part.

(c) A motor vehicle broker and broker's agent.

2. By amending section 160-161 thereof to read as follows:

**"Sec. 160-161. Unlicensed persons not to engage in business; certain advertising and other acts prohibited.** It shall be unlawful for any person, other than a new motor vehicle dealer, a used motor vehicle dealer, a salesman, a broker, or a broker's agent, as defined in this part, duly licensed under this part, for compensation to engage in the business of selling or negotiating for the purchase of motor vehicles at wholesale or at retail within this Territory. No used car dealer shall sell or bring or cause to be brought into the Territory for purposes of sale any new motor vehicle. It shall be unlawful for any motor vehicle dealer to advertise or offer for sale or exchange in any newspaper, or in any manner, or through any other medium, any motor vehicle not actually for sale at the premises of such dealer or available to said dealer from the manufacturer or any authorized distributor of such automobile at the time the advertisement or offer is inserted in the newspaper or other medium. Within forty-eight (48) hours after any motor vehicle that has been advertised for sale has been sold or withdrawn from sale, the motor vehicle dealer advertising or offering the same shall request withdrawal in writing, of any advertisement or offering relative to such motor vehicle, from any newspaper or any other medium publishing the same. No motor vehicle shall be advertised or offered for sale or exchange or offered to be purchased under the representation that it is a new motor vehicle unless such motor vehicle conforms to the definition of 'new motor vehicle' contained in sec. 160-160."

3. By amending section 160-162 thereof to read as follows:

**"Sec. 160-162. County boards.** There shall be appointed for each county in the manner prescribed by section 80 of the Organic Act, a board to be known as the 'motor vehicle dealers', salesmen's, brokers', and brokers' agents' licensing board' consisting of five members for the city and county of Honolulu, and three members for each of the other counties. The members shall be ap-

pointed by the governor, and each of such members shall have been engaged in the business of selling at retail, or negotiating for the purchase of motor vehicles in the Territory for a period of at least one year immediately preceding the date of his appointment. For the city and county of Honolulu, two of the members to be appointed shall be, or shall have been, engaged as dealers primarily in the sale of new motor vehicles, one of the members to be appointed shall be, or shall have been, engaged primarily in the sale of used motor vehicles, one of the members to be appointed shall be, or shall have been, engaged as broker primarily in the negotiation for the purchase of new motor vehicles, and one of the members to be appointed shall be solely and exclusively engaged as a salesman of new or used motor vehicles. For the counties other than the city and county of Honolulu, two of the members shall be, or shall have been, engaged primarily as new motor vehicle dealers, and one of the members shall be solely and exclusively engaged as a salesman, as aforesaid. The members of each board shall hold office for staggered terms of four years; **provided**, that within thirty days after this amended provision takes effect the governor shall designate two then incumbent members of the board for the city and county of Honolulu, and one such member of the board for each other county, to hold over two years after the date on which their respective original terms would, but for this amendment, have expired; and one member from each of said boards to hold over for three years after the date on which their said respective original terms would have so expired; and the terms of the incumbent members so designated are hereby extended accordingly. Thereafter each member shall be appointed for a term expiring four years from the date of expiration of the term of his predecessor, or, in case of a vacancy, for the remainder of the unexpired term. Immediately upon the appointment and qualification of the original members, and annually thereafter, the board shall organize by selecting from its members a chairman. The members of the board shall serve without compensation."

4. By amending this part by substituting for the word "secretary" wherever the same appears in **section 160-163, 160-164, 160-165**, or elsewhere in said part, the words "executive secretary"; and by amending this part by substituting for the words "motor vehicle dealers' and salesmen's licensing board fund" in **section 160-165**, the words "motor vehicle dealers', salesmen's, brokers' and brokers' agents' licensing board fund."

5. By amending **section 160-164** thereof, by adding thereto, at the end thereof, a new paragraph reading as follows:

"In addition to, but not in derogation of, the provisions of this section, the provisions of section 7-27 shall be applicable to the board and to proceedings by or before or under the jurisdiction of the board."

6. By amending the first paragraph of **section 160-166** thereof, by adding the words "or at wholesale" after the words "at retail" in line three of such first paragraph; and by amending the last paragraph of section 160-166 thereof, being the unnumbered paragraph following paragraph (i) thereof, to read as follows:

"Prior to the expiration of a license, in lieu of an application for any renewal of a license as required herein, the board may accept a verified certificate signed by the licensee showing that there has been no change, or no change with specified exceptions, since the last filing of an application in respect to: (1) personnel of owners, partners, officers or directors; and (2) location of offices, or principal place of business, and (3) authorization of licensee by a manufacturer, or distributor, to act as distributor of, or dealer in, new motor vehicles within the Territory, and further certifying that no proceeding is pending for the suspension or revocation of the dealer's license."

7. By amending section 160-167 thereof to read as follows:

**"Sec. 160-167. What persons not to be licensed.** (a) Except as otherwise provided or permitted by section 160-174 the board shall deny the application of any person for a license as a motor vehicle dealer and refuse to issue him a license as such if the board makes any one or more of the following findings: That such applicant: (1) Has intentionally made a false statement of a material fact validly required in his application or any supplementary statement required by this part; (2) Has not complied with the valid applicable provisions of this part or with any valid applicable regulation of the board issued hereunder; (3) Is engaged, or will engage, in the business of selling at retail or wholesale any new motor vehicles without having authority of a contract with the manufacturer or manufacturer's authorized representative thereof, in cases where such authority can validly be required by the Territory; (4) Has been guilty of a fraudulent act in connection with selling or otherwise dealing in motor vehicles; (5) Has entered into, or is about to enter into, a contract, or agreement with a manufacturer or distributor of motor vehicles which is contrary to any valid provision of this part or of any valid regulation of the board issued hereunder; (6) Is insolvent; or (7) Has been convicted of a felony, or misdemeanor involving moral turpitude, and not pardoned.

(b) Before receiving a dealer's license, the applicant shall satisfy the board that he has an established place of business which is used, or will be used, primarily for the purpose of selling, displaying, offering for sale and dealing in motor vehicles. Such established place of business shall have a permanent building suitable for display of at least three (3) motor vehicles having an average wheelbase of at least 90 inches and suitable sanitation facilities for employees. A place of business used for said purpose shall not be deemed in noncompliance with this subsection if it is also used for other purposes accessory to or customarily associated with the retail sale of motor vehicles, such as the maintenance or operation of a repair, accessory, gasoline and oil, storage, parts, service, or paint, branch or department. It is **provided**, however, that if the board in any county, shall, after investigation and a public hearing of which public notice shall have been given by at least one publication thereof at least one week before such hear-

ing in a newspaper of general circulation in the county concerned, find that the foregoing requirement of a permanent building will impose undue hardship upon used motor vehicle dealers due to scarcity of available sites, or the unwillingness of landowners to grant leases for reasonably long terms or permit the erection of permanent buildings suitable for such display purposes, or the like, which render it impossible, economically unfeasible, or impracticable generally to enforce such requirement of a permanent building, as against such used motor vehicle dealers, then the board may waive such requirement as to all used motor vehicle dealers until such time as the board shall find, after further public hearing similarly noticed, that such conditions have changed so that such requirement may be enforced without imposing undue hardship upon such used motor vehicle dealers.

(c) In case the applicant is a corporation, copartnership, trust or other business association, the board may refuse to issue a license if any officer, director, trustee, employee or partner of the applicant has been guilty of any act or omission which would be cause for refusing or revoking a license issued to such officer, director, trustee, employee, or partner as an individual.

(d) The board's findings may be based on facts contained in the application, or any other information it may have, or both."

8. By adding to said part a new section to be numbered and to read as follows:

**"Sec. 160-167.5. Broker's license; application therefor.** No broker shall engage in the business of negotiating for the purchase of motor vehicles in this Territory or assume to engage in such business without first having a license therefor, excepting that in the case of the dissolution of a partnership by death the surviving partner or partners may operate under the license of the persons so succeeded in possession by such executor, administrator, receiver or trustee in bankruptcy.

Each broker applying for a license shall annually, prior to the expiration of his license, make out and deliver to the board upon a blank to be furnished by the board for that purpose a separate application for license for each county in which such business is to be conducted. The application shall be in writing, in the form prescribed by the board and shall be signed and verified by the oath of the applicant, or in the case of a corporation or unincorporated association, by the proper officers thereof, or, if a partnership, by a majority of the members thereof.

Each new application, in addition to such other information as may be required by the board with the approval of the board, shall include the following:

(a) Name of applicant and location of principal place of business;

(b) Name or style under which business is to be conducted;

(c) Name and address of each owner, or partner, and, if a corporation, the name of the officers and directors;

(d) Address of each place of business at which the business is to be conducted;

(e) A statement of the previous history, record and association of the applicant and of each owner, partner, officer and director, which statement shall be sufficient to establish to the satisfaction of the board the reputation in business of the applicant;

(f) A statement showing whether or not the applicant has previously applied for a license under this part and the result of such application, and whether or not the applicant has ever been the holder of such a license which was revoked or suspended;

(g) If the applicant is a corporation or copartnership, a statement showing whether or not any of the partners, employees, officers or directors have been refused such a license, or have been the holder of such a license which was revoked or suspended;

(h) If the applicant is to engage in the business of negotiating for the purchase of new motor vehicles, such written evidence, in the form of an affidavit or otherwise, as will satisfy the board that the applicant will guarantee that he will negotiate for the purchase of new cars only through dealers having the authority of a contract with a manufacturer or manufacturer's representative thereof and that all vehicles purchased through him will have a good, clear title and would carry the standard manufacturer's and/or factory warranties.

Prior to the expiration of a license, in lieu of an application for any annual renewal of a license as required herein, the board may accept a verified certificate signed by the licensee showing that there has been no change, or no change with specified exceptions, since the last filing of an application in respect to: (1) personnel of owners, partners, officers or directors; and (2) location of offices, or principal place of business; and (3) further certifying that no proceeding is pending for the suspension or revocation of the broker's license."

9. By adding to said part a new section to be numbered and to read as follows:

**"Sec. 160-167.55. Broker; what persons shall not be licensed.**

(a) The board shall deny the application of any person for a license as a motor vehicle broker and refuse to issue him a license as such if the board makes any one or more of the following findings: That such applicant: (1) Has intentionally made a false statement of a material fact validly required in his application or any supplementary statement required by this part; (2) Has not complied with the valid applicable provisions of this part or with any valid applicable regulation of the board issued hereunder; (3) Has been guilty of a fraudulent act in connection with the selling of, or negotiating for the purchase of, or otherwise dealing in motor vehicles; (4) Has entered into, or is about to enter into, a contract, or agreement with a manufacturer or distributor of motor vehicles which is contrary to any valid provision of this part or of any valid regulation of the board issued hereunder; (5) Is



insolvent; (6) Has been convicted of a felony or misdemeanor involving moral turpitude, and not pardoned; or (7) Has no established place of business. Such established place of business shall be a location where the principal portion of his business as a broker is conducted and the books and records of such business are kept.

(b) In case the applicant is a corporation, copartnership, trust or other business association, the board may refuse to issue a license if any officer, director, trustee, employee or partner of the applicant has been guilty of any act or omission which would be cause for refusing or revoking a license issued to such officer, director, trustee, employee, or partner as an individual.

(c) The board's findings may be based on facts contained in the application, or any other information it may have, or both."

10. By adding to said part a new section to be numbered and to read as follows:

**"Sec. 160-167.555. Disclosure of dealer and broker.** In cases where any person licensed according to the provisions of this part represents buyers in the Territory in purchasing or attempting to purchase motor vehicles from or through dealers or brokers not licensed in the Territory (hereinafter called 'nonresidents') residing or doing business without the Territory or acts as a broker or agent in negotiating for the sales of motor vehicles from or through such non-residents to the buyers in the Territory, then in such cases he shall file with the Board every six months a statement showing the names and addresses of such non-residents with whom he has actually negotiated any such sales during such six-month period. All such statements shall be under oath."

11. By adding to said part a new section to be numbered and to read as follows:

**"Sec. 160-167.6. Delivery of contract required.** In the event any person licensed according to the provisions of this part represents a buyer in the Territory in purchasing or attempting to purchase a motor vehicle from or through a dealer or broker not licensed in the Territory (hereinafter called 'non-resident') residing or doing business without the Territory or acts as a broker or agent in negotiating for the sale of a motor vehicle from or through such non-resident to the buyer in the Territory, then in such event, he shall deliver to the buyer a copy of a contract or agreement covering such transaction which shall include the make, model, type, year and price of the motor vehicle, the name and address of the non-resident through whom the sale or purchase is negotiated.

12. By amending section 160-168 thereof to read as follows:

**"Sec. 160-168. Bond of dealer and broker.** (a) Each new motor vehicle dealer receiving a license shall give and keep in force a bond to the board in the penal sum of \$10,000 if the license is for the city and county of Honolulu and \$3,000 if the license is for any other county. Each used motor vehicle dealer shall give and keep

in force a bond to the board in the penal sum of \$5,000 if the license is for the city and county of Honolulu and \$2,000 if the license is for any other county. Each broker receiving a license shall give and keep in force a bond to the board in the penal sum of \$3,000 if the license is for the city and county of Honolulu and \$1,000 if the license is for any other county. More than one bond may be furnished by the same applicant, provided they aggregate the full amount prescribed by this section. If any bond is not (a) executed by a surety company authorized to do business in the Territory or (b) secured by a deposit of cash with the board in lieu of surety, then the provisions of sections 9-32, 9-33, 9-34 of the Revised Laws of Hawaii 1955 shall be applicable as nearly as may be to the furnishing of such bond and the surety or sureties and the security thereof, with the substitution of the board hereunder for the awarding officer mentioned in said sections 9-32 and 9-34 *mutatis mutandis*.

(b) It is **provided**, however: (1) That if the applicant maintains an established place of business in the county concerned which is used, or will be used, for the purpose of selling, displaying or offering to negotiate for the purchase of motor vehicles, the market value of which, over and above all liens, charges and encumbrances thereon is equal to or greater than ninety per cent (90%) of the amount of bond required by this section, and the financial condition of the applicant is such that, in the judgment of the board, the excess over ten per cent (10%) of such bond may be waived without unduly jeopardizing the possible rights and interests of present and prospective claimants against the applicant intended to be secured by such bond, then the amount of such bond for new motor vehicle dealers, used motor vehicle dealers, or brokers may be reduced by the board to \$3,000.00 for the city and county of Honolulu, and \$1,000.00 for any other county; and (2) That if the dealer or broker is licensed to engage in the business of selling only motorcycles and/or motor scooters, the bond shall be only in the amount of \$1,000.00 for the city and county of Honolulu, and \$500.00 for any other county.

(c) The bond shall be conditioned:

1. That the dealer or broker will faithfully and truly comply with all the valid provisions of this part as the same now is or may hereafter be amended, and with such valid regulations as may be promulgated by the board pursuant to this part.

2. That he will not be guilty of fraud in connection with the selling, purchasing, negotiating for purchase, or otherwise dealing with motor vehicles or any other property related thereto, and that he will satisfy all judgments rendered against him based in whole or in part upon any representations or warranties made in connection with any retail sale or negotiation for the purchase of a motor vehicle.

3. That he will protect the treasurer of the county and any purchaser of any vehicle or any person acquiring any lien thereon

or successor in interest of any said person against any loss on account of any defect in or undisclosed encumbrance upon the title of any motor vehicle, registered by the treasurer in reliance upon any certificate, affidavit, or other representation of the dealer or broker, or registration or transfer of registration procured by the dealer or broker.

(d) **Suit on Bond.** The board or the treasurer, or, by the written consent of the board, any person who has been or claims to have been injured by the breach of said conditions shall have a right of action to recover on any such bond, plus a reasonable attorney's fee (to be allowed by the court) incurred to procure the recovery under said bond, but the aggregate liability of the surety or sureties to all such persons shall in no event exceed the amount of the bond. Nothing in this section or part shall be deemed to prohibit or prevent an independent action against the dealer or broker and/or any other person from being joined or consolidated with an action on the bond, and the recovery of a larger amount than the amount of the bond founded upon any other cause or causes of action so joined or consolidated."

13. By amending the first paragraph of **section 160-169** thereof, by adding the words "or at wholesale" after the words "at retail" in line two of such first paragraph.

14. By amending section 160-170 thereof, to read as follows:

**"Sec. 160-170. Salesman, what persons shall not be licensed.**

(a) Except as otherwise provided or permitted by section 160-174, the board shall deny the application of any person for a license as a salesman if the board makes one or more of the following findings: that such applicant:

(1) Has made any false statement of a material fact validly required in his application;

(2) Has not complied with the valid applicable provisions of this part or with any valid applicable rule or regulation of the board issued hereunder;

(3) Has been guilty of any fraudulent act in connection with the business of selling motor vehicles;

(4) Has not been designated to act as salesman for a motor vehicle dealer duly licensed under the valid provisions of this part, or intends to act as salesman for more than one licensed motor vehicle dealer at one time; will not be doing business as a salesman as his principal occupation; or

(5) Has been convicted of a felony, or misdemeanor involving moral turpitude, and not pardoned.

(b) The board may refuse to issue a salesman's license to an applicant who was a salesman for, or in the employ of, a motor vehicle dealer at the time such dealer's license was revoked, unless the salesman, in the board's judgment, was free from culpable conduct in connection with the offending dealer's misconduct or other cause for such revocation.

(c) The board's findings may be based on any statement contained in the application or any supplemental statement filed under this part, or any facts within its knowledge."

15. By adding to said part a new section to be numbered and to read as follows:

**"Sec. 160-170.5. Broker's agents, application.** No broker's agent shall engage in the business of negotiating for the purchase of motor vehicles in this Territory or assume to engage in such business without first having a license therefor issued under this chapter.

Each broker's agent shall, prior to the expiration of his license, make out and deliver to the board upon a blank to be furnished by the board for that purpose an application for license. The application shall be in writing, in the form prescribed by the board, and shall be signed and verified by oath of the applicant.

The application shall contain such information as required by the board, and shall contain the following:

- (a) Name and post office address of applicant;
- (b) Name and post office address of the motor vehicle broker for whom the applicant intends to act as broker's agent;
- (c) Statement of applicant's previous history, record and association, which statement shall be sufficient to establish the applicant's business reputation;
- (d) Statement as to whether or not the applicant intends to engage in any occupation, or business, other than that of a broker's agent;
- (e) Statement as to whether or not the applicant has ever had any previous application refused, or whether or not he has previously had a license revoked or suspended;
- (f) Statement as to whether or not the applicant was an employee of, or salesman, or broker's agent for, a dealer or a broker whose license was suspended or revoked;
- (g) Statement of the motor vehicle broker named therein, designating the applicant as his broker's agent."

16. By adding to said part a new section to be numbered and to read as follows:

**"Sec. 160-170.55. Broker's agents, what persons shall not be licensed.**

(a) Except as otherwise provided or permitted by section 160-174, the board shall deny the application of any person for a license as a broker's agent if the board makes one or more of the following findings: that such applicant:

- (1) Has made any false statement of a material fact in his application;
- (2) Has not complied with the provisions of this part or with any rule or regulation of the board issued hereunder;
- (3) Has been guilty of any fraudulent act in connection with the business of selling or negotiating for the purchase of motor vehicles;

(4) Has not been designated to act as broker's agent for a motor vehicle broker duly licensed to do business in this Territory under the provisions of this part or intends to act as broker's agent for more than one licensed motor vehicle broker at one time; will not be doing business as a broker's agent as his principal occupation; or

(5) Has been convicted of a felony, or misdemeanor involving moral turpitude, and not pardoned;

(b) The board may refuse to issue a broker's agent's license to an applicant who was a broker's agent for, or in the employ of, a motor vehicle broker at the time such broker's license was revoked, unless the broker's agent, in the board's judgment, was free from culpable conduct in connection with the offending broker's misconduct or other cause for such revocation.

(c) The board's findings may be based on any statement contained in the application or any supplemental statement filed under this part, or any facts within its knowledge."

17. By adding to said part a new section to be numbered and to read as follows:

**"Sec. 160-170.555. Bonds of Salesmen and Brokers' Agents.**

Each salesman and broker's agent receiving a license shall give and keep in force a bond to the board in the penal sum of \$1,000.00. The provisions of section 160-168, so far as appropriate, shall be applicable to salesmen and brokers' agents, bonds, conditions of bonds, sureties upon bonds, security for bonds, and suits upon bonds, furnished pursuant to this section, mutatis mutandis."

18. By amending section 160-171 thereof to read as follows:

**"Sec. 160-171. Licenses; forms, fees, expiration, exhibiting; not transferable; reports to treasurer.** The board shall prescribe the forms for licenses of automobile dealers, automobile salesmen, automobile brokers and automobile brokers' agents and shall issue such license at the time it grants an application therefor. All licenses shall include the name and post office address of the person licensed.

The annual fee for the following licenses shall be the following respective amounts:

New motor vehicle dealer and motor vehicle broker:

- |   |          |
|---|----------|
| (1) In the city and county of Honolulu..... | \$200.00 |
| (2) In any other county.....                | \$ 60.00 |

Used motor vehicle dealer:

- |   |          |
|---|----------|
| (1) In the city and county of Honolulu..... | \$ 50.00 |
| (2) In any other county.....                | \$ 30.00 |

Dealers dealing primarily in the business of wrecking and dismantling motor vehicles, motorcycles and/or scooters:

- |   |          |
|---|----------|
| (1) In the city and county of Honolulu..... | \$ 50.00 |
| (2) In any other county.....                | \$ 30.00 |

Salesman and broker's agent:

- |   |         |
|---|---------|
| (1) In the city and county of Honolulu..... | \$ 7.50 |
| (2) In any other county.....                | \$ 3.00 |

A new or used motor vehicle dealer's license shall also authorize the holder thereof to sell new and used motorcycles and motor scooters. In all cases, the fee shall accompany the application for license and shall not be refundable if the license is granted.

Whenever any license is renewed upon application made subsequent to July 30 of a fiscal year, there shall be added to the license fee an amount equal to 25% thereof.

Dealers', salesmen's, brokers' and brokers' agents' licenses shall expire on June 30 of each year unless sooner terminated, suspended or revoked. A salesman's or broker's agent's license shall terminate upon the termination of the license of the dealer or broker, as the case may be, by whom he is employed or upon his ceasing for any other reason to be employed by such dealer or broker. A dealer's or broker's license shall terminate upon the cessation of the business for which it was issued. Upon the termination, suspension or revocation of a dealer's, salesman's, broker's or broker's agent's license, the holder shall deliver it to the board. Where such termination is not the result of suspension or revocation by the board for cause, the board shall return the license to the holder without cost in the event of his resuming the business or employment for which it was originally issued prior to the expiration of the fiscal year for which it was issued. Prior to entering the employ of a dealer or broker, as the case may be, other than the one for whose employ his license was issued, a salesman or broker's agent may apply to the board for an amended license authorizing such new employment. Unless good cause exists for refusal, the board shall issue such amended license for the period of the unexpired term of the original license and shall charge therefor a fee of \$1.00. Failure to obtain a properly amended license prior to commencing such new employment shall constitute grounds for refusal to issue an amended salesman's or broker's agent's license or revocation of the license.

No license issued under this part shall be transferable. Each dealer and broker shall keep a license or a certified copy of a license posted in a conspicuous place in each place of business. Each salesman and broker's agent shall carry his license or a certified copy thereof and shall exhibit such license or certified copy thereof upon demand by any person with whom he seeks to transact business as a motor vehicle salesman or broker's agent. A license issued under this part shall authorize the doing of business thereunder only in the county in which the same has been issued.

In case any license is not granted, the fee shall be returned to the applicant at the time he is notified that his application has been refused.

A copy of the application of each dealer and broker duly executed and approved by the board and a report of the suspension, revocation or change of status of a dealer's or broker's license shall be furnished to the treasurer promptly upon the granting, sus-

pension, revocation or change of status of any dealer's or broker's license."

19. By amending section 160-172 thereof to read as follows:

**"Sec. 160-172. Change of status, supplemental statement.** If the status of any licensed motor vehicle dealer or broker changes during the period for which the license is issued in respect to: (a) personnel of owners, partners, officers, or directors, or (b) location of office or principal place of business, or in the case of a dealer, (c) authorization of the licensee by a manufacturer or distributor, to act as distributor of, or dealer in, new motor vehicles within the Territory, the licensee shall within fifteen days thereafter file with the board a supplemental statement on a form prescribed by the board showing in what respects such status has been changed.

The supplemental statements required by this section are in addition to those required by any other provision of this part, but the board may by rules and regulations permit a combined supplemental statement to be filed on forms prescribed by it covering all such requirements."

20. By amending section 160-173 thereof to read as follows:

**"Sec. 160-173. Suspension; revocation; denial of renewal; appeal.** The board of its own motion whenever it has reason to believe cause therefor exists may, and upon the verified complaint in writing of any person shall, investigate the conduct of any licensee under this part and may suspend or revoke, or refuse to renew, any dealer's, salesman's, broker's or broker's agent's license at any time in the manner and for any of the causes specified in this section or elsewhere in this part.

A license may, after notice and hearing as provided in section 160-174, and subject to appeal to the Circuit Court of the circuit in which such board has jurisdiction under the procedure and rules prescribed from time to time by the laws of the Territory or the applicable rules of the courts pertaining to appeals to circuit courts from awards of industrial accident boards, be suspended, revoked, or the renewal thereof may be refused, by the board if it finds that the holder:

(a) Has intentionally made a false statement of a material fact in his application for a license or has obtained or attempted to obtain a license by fraud or misrepresentation.

(b) Has violated any provision of this chapter or any other law relating to the sale, taxing or licensing of motor vehicles or any rule, regulation or order made pursuant to this chapter or any such other laws.

(c) Has been convicted of a felony, or misdemeanor involving moral turpitude, and not pardoned.

(d) Has been guilty of a fraudulent act in connection with selling, negotiating for the purchase of, or otherwise dealing in motor vehicles or has misrepresented the terms and conditions of a sale, purchase or contract for the sale or purchase of a motor vehicle.

(e) Has engaged in his business in such a manner as to cause injury to the public or to those with whom he is dealing.

(f) Has committed any act or failed to meet any condition which commission or failure would constitute grounds for refusing to issue the licensee a license."

21. By amending section 160-174 thereof to read as follows:

**"Sec. 160-174. Notice of hearing; discretionary powers of board.**

(a) Before suspending, revoking, or refusing to renew a license, the board shall notify the licensee or applicant in writing of the specific charges against him and shall afford him an opportunity to be heard in person, or by counsel, with reference thereto. Notice of such hearing may be served in person, or by mailing the same by registered mail addressed to the address shown on the application or on the last supplementary statement filed (if any). No hearing shall be held less than fifteen (15) days after notice has been so served.

(b) Where any applicant for a dealer's, salesman's, broker's or broker's agent's license or any officer, director, trustee, employee or partner of such applicant has been guilty of any act or omission involving personal misconduct which by this part is made ground for refusing to issue a license or for revoking a license, such as the making of a false statement of a material fact in an application or supplemental statement, the commission of a fraudulent act in connection with the sale or negotiation for the purchase of motor vehicles, and the like, the board shall have discretion, nevertheless, to issue the license or suspend or reject the revocation of the license, upon such reasonable conditions, including the furnishing of a reasonable bond not exceeding \$1,000, where a bond is not otherwise required of such person by this part, as to future good conduct of the applicant and/or other person concerned, as the board shall determine, provided the board finds: (1) that there are extenuating circumstances which indicate that the act or omission was not due to moral turpitude; or (2) that a reasonable time fixed by regulation of the board, not less than one year, has elapsed since the act or omission occurred, together with evidence of the person's rehabilitation or general good character, sufficient to indicate that the person is not likely to repeat the offense or engage in illegal, unlawful or unconscionable practices; and (3) that such favorable action by the board will not jeopardize the public interest."

22. By amending section 160-180 thereof to read as follows:

**"Sec. 160-180. Selling or permitting certain acts without license; penalty.** Whoever permits an unlicensed person to engage on his behalf in the business of buying, selling, displaying, offering for sale or dealing in motor vehicles at retail or wholesale, or engages in such business without having a license therefor, shall be fined not less than \$50 nor more than \$500 for the first offense, and not less than \$500 nor more than \$1,000 for any subsequent offenses."

23. By amending section 160-183 thereof to read as follows:



**“Sec. 160-183. Other violations; penalty.** Whoever violates any of the provisions of this part or any lawful rule or regulation promulgated by the board under authority of this part, for the violation of which no penalty is provided by law, shall be fined not less than \$50 nor more than \$500.”

24. By adding to said Part V a new section numbered 160-183.5 reading as follows:

**“Sec. 160-183.5. Injunction.** Any licensee or other person who violates, neglects or fails in any particular to conform to or comply with any of the provisions of this part or any valid applicable rule or regulation adopted pursuant to this part, may, in an action brought in the name of the Territory by the board, be enjoined by the circuit court of the circuit in which the violation, neglect or failure occurs from engaging in business while such violation, neglect or failure continues.”

25. By amending section 160-184 thereof to read as follows:

**“Sec. 160-184. Information in applications confidential; penalty for divulging.** The applications for license and contracts required by the provisions of sections 160-166, 160-167.5, 160-169 and 160-170.5 shall not be deemed a part of the public records but shall be confidential information for use of the treasurer and board. Whoever, except in a report to the treasurer or the board or when called on to testify in any court or proceeding, divulges any information contained in such applications and acquired by him in his capacity as an official or employee of the county treasurer's office or of the board shall be fined not less than \$50 nor more than \$100.

**Provided,** however, that the treasurer or the board may permit the inspection of any such applications by any other person upon being satisfied that the inspection is desired for some lawful and proper purpose.”

26. By amending section 160-185 thereof to read as follows:

**“Sec. 160-185. Liberal interpretation.** All provisions in this part relating to the licensing of automobile dealers, salesmen, brokers, and brokers' agents and designating and granting power to the board shall be liberally construed to the end that the practice or commission of fraud in the business of selling or negotiating for the purchase of motor vehicles may be prohibited and prevented.”

27. By amending section 160-186 thereof to read as follows:

**“Sec. 160-186. Sections 155-93 and 155-94 not to apply.** The provisions of sections 155-93 and 155-94 shall not apply to salesmen, dealers, brokers or brokers' agents licensed under the provisions of this part.”

**SECTION 2. Effect of Invalidity.** If any provision of PART V of Chapter 160 of said Revised Laws, as amended by this Act, or as the same may be amended hereafter from time to time, or its application to any person or circumstances, shall be held unconstitutional or invalid, the remainder of said part or the application of such provision to any

other persons or circumstances shall not be affected, but said part and such provision shall continue to be effective as to, and be applicable to, those persons or circumstances, and to the extent, to which they constitutionally and validly could apply, and they shall be so construed as to effect this legislative intent.

**SECTION 3. Effective Dates.** This Act shall take effect upon June 1, 1957, so as to enable the Motor Vehicle Dealers', Salesmen's, Brokers' and Brokers' Agents' Licensing Boards to promulgate regulations, prepare forms, and otherwise prepare for enforcing Chapter 160, Part V of said Revised Laws on and after July 1, 1957, but no person shall be penalized under this Act for any act or omission prior to July 1, 1957, which, but for the enactment of this Act, would not have been illegal or would not have been required.

(Approved June 6, 1957.) **H.B. 873, Act 302.**

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### ACT 303

An Act Relating to Mutual and Fraternal Benefit Societies.

*Be it Enacted by the Legislatura of the Territory of Hawaii:*

**SECTION 1.** Chapter 181 of the Revised Laws of Hawaii 1955 is hereby amended by adding to the subtitle thereof, designated "Group Life Insurance", a new section, to be appropriately numbered, reading as follows:

**"Sec. [181-567.5]. Mutual Benefit Society Groups.** The lives of a group of individuals may be insured under a policy issued to mutual benefit society, which shall be deemed the policy-holder, to insure members of such society for the benefit of persons other than the society or any of its officials, subject to the following requirements:

(a) The society must have been formed for purposes other than obtaining insurance and have, when the policy is placed in force, a membership in the classes eligible for insurance of not less than seventy-five per cent of the number of persons eligible for membership in such classes.

(b) The members eligible for insurance under the policy shall be all of the members of the society, or all of any class or classes thereof, determined by conditions pertaining to their membership in the society.

(c) The premium for the policy shall be paid by the policy-holder, either from the society's own funds or from charges collected from the insured members specifically for the insurance, or from both. No policy may be placed in force unless and until at least seventy-five per cent of the then eligible members of the society, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, have elected to be covered and have arranged for payment of their individual contributions to

the society. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(d) Charges collected from the insured members specially for the insurance, and the dues of the society if they include the cost of insurance, may be determined according to each attained age or in not less than four reasonably spaced attained age groups.

(e) The policy must cover at least twenty-five persons at date of issue.

(f) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the society. No policy may be issued which provides term insurance on any member which together with any other term insurance under any group life insurance policy or policies issued to the society, exceeds twenty thousand dollars.

(g) As used in this section, the term 'mutual benefit society' has the same meaning as that ascribed to it in section 185-1. Any mutual benefit society participating in an insurance program under this section shall be exempted from the requirements of chapter 185 relative to the management or operation of its death or disability benefit funds with respect to said insurance program."

SECTION 2. All provisions of law, including section references, are hereby amended to conform to this Act.

SECTION 3. This Act shall take effect upon its approval.

(Approved June 6, 1957.) H.B. 917, Act 303.

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### ACT 304

An Act Waiving Territorial Immunity to Suit With Respect to An Action By or on Behalf of John R. Bonilla, A Minor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The immunity of the Territory of Hawaii to suit is hereby waived as to a cause of action on the claim of John R. Bonilla, a minor, for injuries received crossing New Farrington Highway at Waipio, on or about May 26, 1949, while employees of the territorial highway department were engaged in patching said highway.

SECTION 2. Action on such claim is hereby expressly authorized; **providing** that nothing contained herein shall be construed as an admission of liability on the part of the Territory; and **provided further** that nothing contained herein shall prohibit the Territory from settling or compromising said claim.

SECTION 3. Any action by or on behalf of said John R. Bonilla

shall be filed in the Circuit Court of the Territory of Hawaii within two years from the effective date of this Act.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 6, 1957.) **H.B. 1172, Act 304.**

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## ACT 305

An Act Relating to Contractors; Creating a Contractors License Board; Prescribing Its Powers, Duties and Functions; and Prescribing Penalties.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby added to the Revised Laws of Hawaii 1955 a new chapter to be appropriately numbered by the Secretary of the Territory reading as follows:

**"CHAPTER [166A]. CONTRACTORS**

**Sec. 1. Definitions.** As used in this chapter:

- (a) 'Board' means the contractors license board;
- (b) 'Contractor' means any person who by himself or through others offers to undertake, or holds himself out as being able to undertake or does undertake to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project, development or improvement, or do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, for another person, for a fee;
- (c) 'Contractor' includes a subcontractor and a specialty contractor;
- (d) 'Person' means an individual, partnership, joint venture, corporation or any combination thereof. 'Corporation' includes an association, business trust or any organized group of persons.

**Sec. 2. Exemptions.** The provisions of this chapter shall not apply:

- (a) To an officer or employee of the United States, the Territory or any political subdivision if the project or operation is performed by employees thereof;
- (b) To any person acting as a receiver, trustee in bankruptcy, administrator or executor, or any other person acting under any order or authorization of any court;
- (c) To a person who sells or installs any finished products, materials or articles of merchandise which are not actually fabricated into and do not become a permanent fixed part of the structure, or to the construction, alteration, improvement or repair of personal property;
- (d) To any project or operation for which the aggregate contract price for labor, materials and all other items is less than \$100.

This exemption shall not apply in any case wherein such undertaking is only a part of a larger or major project or operation, whether undertaken by the same or a different contractor or in which a division of the project or operation is made in contracts of amounts less than \$100 for the purpose of evading the provisions of this chapter or otherwise;

(e) To a registered architect or professional engineer acting solely in his professional capacity;

(f) To any person who engages in the activities herein regulated as an employee with wages as his sole compensation;

(g) To any person who undertakes by himself or through his employees any operation for himself;

(h) To any copartnership or joint venture if all members thereof hold licenses issued under this chapter or if the person or persons who have the direct management of the contracting business thereof hold a license.

### **Sec. 3. Contractors License Board.**

(a) There shall be a Contractors License Board of seven members appointed by the governor in the manner prescribed in section 80 of the Organic Act, and who shall continue in office as designated by the governor at the time of appointment, for terms expiring as follows: three on the last day of the calendar years of 1959, 1960, and 1961, respectively; two on the last day of the calendar year of 1962, and two on the last day of the calendar year of 1963.

(b) Successors of the members initially appointed shall be appointed each for a term of five years commencing with the expiration of the preceding term, in the same manner as the members originally appointed under this chapter, except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his successor.

(c) (1) Five members of the board shall be contractors who have been actively engaged in the contracting business for a period of not less than five years preceding the date of their appointment.

(2) Four members shall be residents of the City and County of Honolulu and the other three shall be residents of the counties of Hawaii, Maui and Kauai, respectively.

(3) One member of the board shall be a general engineering contractor, two members shall be general building contractors, two members shall be specialty contractors and two members shall be non-contractors. No member shall receive any compensation for his services, but each shall be reimbursed for his necessary traveling expenses incurred in the performance of his duties.

(d) Except for members of the board first appointed, no one, except the two non-contractor members, shall be eligible for appointment who does not at the time of his appointment hold a

valid and unexpired license to operate as a contractor. Each of the contractor members of the board first appointed shall, within 30 days of his appointment, qualify for and obtain a license to operate as a contractor.

(e) Organization, records, reports. Immediately upon the appointment and qualification of the original members, and annually thereafter, the board shall organize by the election of one member as chairman and one member as vice-chairman. The board shall keep a complete record of all its proceedings and shall present annually to the governor a detailed statement of the receipts and disbursements of the board during the preceding year, with a statement of its acts and proceedings and such recommendations as the board may deem proper.

**Sec. 4. Powers and duties of board.** In addition to any other duties and powers granted by this chapter the board shall:

(a) Grant licenses to contractors pursuant to this chapter;

(b) Make, amend or repeal such rules and regulations as it may deem proper fully to effectuate the provisions of this chapter and carry out the purpose thereof, which purpose is the protection of the general public. All such rules and regulations shall be approved by the governor and shall be published once in the English language in a newspaper of general circulation in the Territory, and when promulgated and filed pursuant to the provisions of sections 7-28 to 7-41, shall have the force and effect of law. The rules and regulations may forbid acts or practices deemed by the board to be detrimental to the accomplishment of the purpose of this chapter. Such rules and regulations may require contractors to make reports to the board containing such items of information as will better enable the board to enforce this chapter and rules and regulations, or as will better enable the board from time to time to amend the rules and regulations more fully to effectuate the purpose of this chapter. The rules and regulations may require contractors to furnish reports to owners containing such matters of information as the board deems necessary to promote the purpose of this chapter. The enumeration of specific matters which may properly be made the subject of rules and regulations shall not be construed to limit the board's broad general power to make all rules and regulations necessary fully to effectuate the purpose of this chapter;

(c) Enforce the provisions of this chapter and rules and regulations adopted pursuant thereto;

(d) Subject to the provisions of chapters 3 and 4, appoint and remove such administrative and clerical assistants as it may require and prescribe their powers and duties;

(e) (1) Appoint an executive secretary of the board and fix his compensation without regard to the provisions of chapters 3 and 4 or any other law relating to Territorial civil service, to serve at the pleasure of the board. The executive secretary shall be appointed with due regard to his fitness, thorough administrative

ability and knowledge of and experience in the business of contracting. He shall devote his entire time to the duties of his office and shall not be actively engaged or employed in any other business, vocation or employment, nor shall he have any pecuniary interest, direct or indirect, in any contracting enterprise or enterprises conducted or carried on within the Territory;

(2) The executive secretary shall, under the supervision of the board, administer the provisions of this chapter and the rules and regulations and orders established thereunder and perform such other duties as the board may require; he shall attend but not vote at all meetings of the board; he shall be in charge of the offices of the board and responsible to the board for the preparation of reports and the collection and dissemination of data and other public information relating to contracting;

(3) The board may, by written order filed in its office, delegate to the executive secretary such of its powers or duties as it deems reasonable and proper for the effective administration of this chapter, except the power to make rules or regulations. Such delegated powers and duties may be exercised by the executive secretary in the name of the board;

(f) Suspend or revoke any license for any cause prescribed by this chapter, or for any violation of the rules and regulations, and refuse to grant any license for any cause which would be ground for revocation or suspension of a license;

(g) Publish and distribute pamphlets and circulars containing such information as it deems proper to further the accomplishment of the purpose of this chapter.

**Sec. 5. Place of meeting.** The superintendent of public works shall provide suitable quarters for meetings of the board and for the transaction of its other business.

**Sec. 6. Classification.** (a) For the purpose of classification, the contracting business includes any or all of the following branches:

- (1) General engineering contracting;
- (2) General building contracting;
- (3) Specialty contracting;

(b) A general engineering contractor is a contractor whose principal contracting business is in connection with fixed works requiring specialized engineering knowledge and skill, including the following divisions or subjects: irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, docks and wharves, shipyards and ports, dams and hydroelectric projects, levees, river control and reclamation works, railroads, highways, streets and roads, tunnels, airports and airways, sewers and sewage disposal plants and systems, waste reduction plants, bridges, overpasses, underpasses and other similar works, pipelines and other systems for the transmission of petroleum and other liquid or gaseous substances, parks, playgrounds and other recreational works, refineries, chemical plants and similar in-

dustrial plants requiring specialized engineering knowledge and skill, powerhouses, power plants and other utility plants and installations, mines and metallurgical plants, land levelling and earthmoving projects, excavating, grading, trenching, paving and surfacing work and cement and concrete works in connection with the above mentioned fixed works.

(c) A general building contractor is a contractor whose principal contracting business is in connection with any structure built, being built, or to be built, for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, requiring in its construction the use of more than two unrelated building trades or crafts, or to do or superintend the whole or any part thereof.

(d) A specialty contractor is a contractor whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

**Sec. 7. Powers to classify and limit operations.**

(a) The board may adopt rules and regulations necessary to effect the classification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage, as defined in the preceding section.

(b) A licensee may make application for classification and be classified in more than one classification if the licensee meets the qualifications prescribed by the board for such additional classification or classifications. No additional application or license fee shall be charged for qualifying or classifying a licensee in additional classifications.

(c) This section shall not prohibit a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work in the crafts or trades, other than in which he is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

**Sec. 8. Licenses required.** No person within the purview of this chapter shall act, or assume to act, or advertise, as a general engineering contractor, general building contractor or specialty contractor without a license previously obtained under and in compliance with the provisions of this chapter and the rules and regulations of the board.

**Sec. 9. Investigation permitted.** The board may investigate, classify and qualify applicants for contractors' licenses.

**Sec. 10. No license issued when.** No license hereunder shall be issued:

- (a) To any person unless he has filed an application therefor;
- (b) To any person who does not possess a good reputation for



honesty, truthfulness, financial integrity and fair dealing;

(c) To any copartnership or joint venture unless every member of such copartnership or joint venture who actively participates in the contracting business thereof holds an appropriate license;

(d) To any corporation unless the contracting business thereof is under the direct management of an officer or employee thereof and unless such officer or employee holds an appropriate license;

(e) To any individual unless he is of the age of twenty years or more;

(f) To any person unless he submits satisfactory proof to the board that he has obtained workmen's compensation insurance or has been authorized to act as a self-insurer as required by chapter 97.

#### **Sec. 11. Application; fees.**

(a) Every applicant for a license under this chapter shall file an application with the board in such form and setting forth such information as may be prescribed or required by the board, and shall furnish such additional information bearing upon the issuance of such license as it shall require. Every application shall be sworn to before an officer authorized to administer oaths. In the case of a copartnership, joint venture or corporation any member or officer thereof may sign the application and verify the same on behalf of the applicant.

(b) Every application, in the case of an individual, shall be accompanied by sworn certificates of not less than two persons who have known the applicant for a period of not less than six months, certifying that the applicant bears a good reputation for honesty, truthfulness and fair dealing.

(c) Every application for a license hereunder shall be accompanied by an application fee of \$5.

**Sec. 12. Form for licenses.** The form of every license shall be prescribed by the board, and shall be issued in the name of the board.

**Sec. 13. Place of business and posting of license.** A licensed contractor shall have and maintain a definite place of business in the Territory and shall display therein his contractor's license.

**Sec. 14. Fees; annual renewals.** (a) The fee for each original license and renewal thereof prescribed by this chapter shall be as follows:

- |  |       |
|--|-------|
| (1) License to act as a specialty contractor,  | \$25  |
| (2) License to act as a general engineering contractor,  | \$100 |
| (3) License to act as a general contractor,  | \$100 |
| (4) Reissuance of a license when there has been a change in the licensee's name or business address, | \$1   |
| (5) Reissuance of a lost license,  | \$1   |
| (6) Issuance of a certified copy of license,   | \$1   |

(b) The annual renewal fee shall be paid to the board on or before June 30 of each year. Failure, neglect or refusal of any

licensee to pay such annual renewal fee before such date shall constitute a forfeiture of his license. Any such license may be restored upon written application therefor within one year from such date and the payment of the required fee plus an amount equal to 10 per cent thereof.

(c) The fee for an original or renewal license may be increased to not more than \$200 in any year if the board determines that its expenses of administration warrant such increase.

**Sec. 15. Action on applications.** Within 45 days after the filing of an application for a license and the payment of the required fees, the board shall conduct an investigation of the applicant. Within such time the board shall either issue a license to the applicant or else notify him in writing by registered mail to show cause within the next 15 days why his application should not be denied. The proceeding upon an order to show cause shall be conducted in accordance with the provisions of section 17 of this chapter.

**Sec. 16. Revocation, suspension and renewal of licenses.** The board may revoke any license issued hereunder, or suspend the right of the licensee to use such licenses, or refuse to renew any such license for any of the following causes:

(a) Conviction of any felony or misdemeanor involving moral turpitude;

(b) Any dishonest or fraudulent or deceitful act as a contractor which causes a substantial damage to another;

(c) Pursuing a continued and flagrant course of misrepresentation or of making false promises through advertising or otherwise;

(d) Abandonment of any construction project or operation without reasonable or legal excuse;

(e) Wilful diversion of funds or property received for prosecution or completion of a specific construction project or operation, or for a specified purpose in the prosecution or completion of any construction project or operation, and the use thereof for any other purpose;

(f) Wilful departure from, or wilful disregard of plans or specifications in any material respect without consent of the owner or his duly authorized representative, which is prejudicial to a person entitled to have the construction project or operation completed in accordance with such plans and specifications;

(g) Wilful violation of any law of the Territory, or of any political subdivision thereof, relating to building, including any violation of any applicable rule or regulation of the Board of Health, or of any applicable safety law or labor law;

(h) Failure to make and keep records showing all contracts, documents, records, receipts and disbursements by a licensee of all his transactions as a contractor for a period of not less than three years after completion of any construction project or operation to

which the records refer or to permit inspection of such records by the board;

(i) When the licensee being a copartnership or a joint venture permits any member of such copartnership or joint venture who does not hold a license to actively participate in the contracting business thereof;

(j) When the licensee being a corporation permits any officer or employee of such corporation who does not hold a license to have the direct management of the contracting business thereof;

(k) Misrepresentation of a material fact by an applicant in obtaining a license;

(l) Failure of a licensee to complete in a material respect any construction project or operation for the agreed price if such failure is without legal excuse;

(m) Wilful failure in any material respect to comply with the provisions of this chapter or the rules and regulations promulgated pursuant thereto;

(n) Wilful failure or refusal to prosecute a project or operation to completion with reasonable diligence;

(o) Wilful failure to pay when due a debt incurred for services or materials rendered or purchased in connection with his operations as a contractor when he has the ability to pay or when he has received sufficient funds therefor as payment for the particular operation for which the services or materials were rendered or purchased;

(p) The false denial of any debt due or the validity of the claim therefor with intent to secure for licensee, his employer, or other person, any discount of such debt or with intent to hinder, delay, or defraud the person to whom such debt is due;

(q) Failure to secure or maintain workmen's compensation insurance when not authorized to act as a self-insurer under chapter 97.

No license shall be suspended for longer than two years and no person whose license has been revoked shall be eligible to apply for a new license until the expiration of two years.

**Sec. 17. Hearings.** In every case where it is proposed to refuse to grant a license or to revoke or suspend a license or to refuse to renew a license, the board shall give written notice to the person concerned specifying the cause or causes for which it is proposed to take such action, and fixing the date of hearing. The notice shall be given in writing by registered mail at least 15 days before the hearing. At the hearing, before final action is taken by the board, the person concerned shall be entitled to be heard in person or through counsel, and shall be accorded a full and fair hearing. Said hearing whenever possible shall be held on the island on which the aggrieved party resides.

In all proceedings before it, the board and each member thereof shall have the same powers respecting administering oaths,

compelling the attendance of witnesses and the production of documentary evidence, and examining witnesses as are possessed by circuit judges at chambers. In cases of disobedience by any person of any order of the board, or any member thereof, or of any subpoena issued by it, or him, or the refusal of any witness to testify to any matter regarding which he may be questioned lawfully, any circuit judge, on application by the board, or a member thereof, shall compel obedience as in the case of disobedience of the requirements of a subpoena issued by a circuit court, or a refusal to testify therein.

**Sec. 18. Appeal to circuit judge.** An applicant who has been refused a license and every licensee whose license shall have been suspended, revoked or not renewed may appeal the board's decision to a circuit judge at chambers of the circuit court of the circuit in which the applicant or licensee resides by filing a notice of appeal in such court within 20 days from the date of mailing by the board to the applicant or licensee of a copy of its decision. Such appeal shall not operate as a stay of the decision appealed from. The appeal shall be subject to such procedure and rules as may be prescribed by the court and the decision of the judge shall be final.

**Sec. 19. Fees; appropriation.**

(a) All fees received by the board under this chapter shall be deposited in a special fund in the Territorial treasury. All funds so deposited are hereby appropriated for the purpose of paying all expenses incurred in the administration of this chapter, including investigations of alleged violations of the provisions of this chapter. Said funds may be expended upon warrants issued by the auditor of the Territory based upon vouchers approved by the chairman of the board.

(b) The board may refund any fee erroneously paid to it under this chapter when the board deems it just and equitable.

**Sec. 20. Death or dissociation.** No copartnership, joint venture or corporation shall be deemed to have violated any provision of this chapter by acting or assuming to act as a contractor after the death or dissociation of a licensee who had the direct management of the contracting business thereof prior to final disposition by the board of an application for a license made within 30 days from the date of such death or dissociation.

**Sec. 21. Civil action.** The failure of any person to comply with any provision of this chapter shall not prevent such person from recovering for work done, or materials or supplies furnished, or both, on a contract or on the basis of the reasonable value thereof, in a civil action, if such person shall obtain a license under this chapter prior to the time of trial of such action.

**Sec. 22. Violation, penalty.** Any person who violates, or omits to comply with, any of the provisions of this chapter shall be punished by a fine not to exceed \$1000."

**SECTION 2. Constitutionality.** If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any other provision or application of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

**SECTION 3.** This Act shall take effect upon its approval, except that no person shall be required to make application for and obtain a license to act as a contractor prior to August 1, 1957.

(Approved June 6, 1957.) **H.B. 423, Act 305.**

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### ACT 306

An Act Relating to Public Improvements and the Financing Thereof, Authorizing Lease-Purchase Agreements and Purchase Contracts in Connection Therewith, and Enacting Chapter 137A of the Revised Laws of Hawaii 1955 .

*Be it Enacted, by the Legislature of the Territory of Hawaii:*

**SECTION 1.** There is hereby enacted a new chapter of the Revised Laws of Hawaii 1955 to be numbered chapter 137A, to consist of sections 137A-1 to 137A-12, and to read as follows:

**"CHAPTER 137A. LEASE-PURCHASE AGREEMENTS;  
PURCHASE CONTRACTS.**

**Sec. 137A-1. Lease-purchase agreements and purchase contracts authorized.** Wherever a public improvement or the acquisition of real property or improvements for a public use or purpose is authorized by law, the same may be financed, constructed and acquired by means of a lease-purchase agreement or a purchase contract or combination or variation thereof in the manner provided in this chapter.

**Sec. 137A-2. Definitions.** A 'lease-purchase agreement' means an agreement whereby the government as lessee leases property from the owner thereof as lessor with an option in or agreement by the government to purchase the property.

A 'purchase contract' means a contract whereby a person as the contractor agrees with the government as the purchaser to (1) finance, construct and sell to the government, or (2) finance the construction of and sell to the government, or (3) construct for the government, a public improvement.

'Government' includes the Territory, the several counties, and any agency or instrumentality of either which is authorized to construct any public improvement or acquire any real property or improvements for a public use or purpose.

To 'construct' includes to remodel, repair or alter.

**Sec. 137A-3. Who may enter into agreement or contract.** Any

lease-purchase agreement or purchase contract entered into pursuant to the provisions of this chapter shall be executed in the name of the Territory or appropriate county, as the case may be, acting by and through the governmental agency having jurisdiction over the public improvement, on the one hand and may be entered into with any other person, copartnership, corporation or other public or private entity.

**Sec. 137A-4. Approval of agreement or contract.** No proposed lease-purchase agreement or purchase contract shall be executed unless the same has been approved, (a) in the case of the Territory or any of its agencies or instrumentalities, by the director of the bureau of the budget and the governor, or (b) in the case of a county or any of its agencies or instrumentalities, by the board of supervisors of the county.

**Sec. 137A-5. Provisions of agreement or contract.** Each such lease-purchase agreement or purchase contract shall include such provisions as the governmental agency having jurisdiction over the public improvement deems to be in the best interests of the government and appropriate to secure the performance of the obligations imposed upon the person who enters into such agreement or contract with the government subject to the following:

(a) The term of any such agreement or contract shall not be less than ten nor more than twenty-five years.

(b) Each such agreement or contract shall provide that title to the property shall vest in the government at or before the expiration of the term thereof and upon fulfillment of the terms and conditions stipulated therein.

(c) Every such agreement or contract shall provide for equal annual payments for the amortization of principal with interest thereon, whether defined as rent or otherwise, and for the application to or reduction of the purchase price agreed upon therein of installment payments made thereunder or specified annual amounts provided for therein.

(d) No such agreement or contract shall provide for the payment by the government in pursuance of the terms thereof of moneys in an aggregate annual amount in excess of fifteen per cent of the appraised fair market value of the property being acquired as of the date of the agreement or contract, or, where the construction of the public improvement has not been completed at such date, in excess of fifteen per cent of the fair market value as of the date of completion of such construction.

(e) No such agreement or contract shall provide for any payments to be made by the government in excess of the amount necessary to —

(1) amortize —

(i) the cost of the public improvement plus the fair market value, as of the date of the agreement or contract, of the site if owned or acquired by the lessor or contractor;  
or

(ii) the fair market value, as of the date of the agreement or contract, of the completed improvements including the site; or

(iii) a combination of the foregoing in the case of existing improvements to be remodeled, repaired or altered by the lessor or contractor; and

(2) provide a reasonable rate of interest on the outstanding principal as determined under (1) above; and

(3) reimburse the lessor or contractor for the cost of any other obligations assumed by him under the agreement or contract, including but not limited to payment of taxes, costs of carrying insurance, and costs of repair and maintenance.

(f) Every such agreement or contract shall contain a provision reserving to the government the right to prepay the unpaid portions of the principal at any time during the term thereof, either (i) without payment of premium or penalty, or (ii) with payment of premium or penalty in accordance with a specified schedule. Whether this right may be exercised with or without payment of premium or penalty, and if with payment of premium or penalty, the schedule thereof, may be made the subject of and determined as a result of alternate bids.

**Sec. 137A-6. Site for public improvement.** If the site of the proposed public improvement is owned by the government, the same may be leased to the lessor under a lease-purchase agreement or a contractor under a purchase contract at a rental of \$1 per year for a term of not more than fifty-five years. The area covered by the lease shall not exceed the amount which would otherwise have been set aside for the public improvement. Any such lease shall in any event terminate when title to the public improvement vests in the government. The lease shall contain such provisions as are appropriate and shall be approved, (a) in the case of the Territory or any of its agencies or instrumentalities, by the commissioner of public lands and the governor, or (b) in the case of a county or any of its agencies or instrumentalities, by the board of supervisors of the county. Such a lease when made in connection with and as part of a lease-purchase agreement or purchase contract entered into under the provisions of this chapter, shall not be subject to the provisions of section 73 of the Hawaiian Organic Act.

**Sec. 137A-7. Drawings and specifications.** Drawings and specifications for the public improvement shall be prepared and supplied by the government to the lessor or contractor in the same manner as would have been the case if the public improvement were not to be financed, constructed or acquired under the provisions of this chapter.

**Sec. 137A-8. Public bids.** Except as provided in section 137A-9, lease-purchase agreements and purchase contracts provided for under this chapter shall be entered into only as a result of an award made after public advertisement for sealed tenders in

accordance with the provisions of chapter 9. The award shall be made to the responsible bidder offering the lowest annual cost to the government on an equal annual installment basis. In order to obtain the widest possible competition and the lowest annual cost to the government, bids may be called for and taken on an alternate basis, that is, to finance, construct and sell, or separately (a) to construct, and (b) to finance and sell. A construction bidder shall state the price for construction of the improvements. A finance and sell bidder shall state the rate of interest for the installment sale of the completed project to the government.

**Sec. 137A-9. Lease-purchase of existing improvement.** Where the government seeks to acquire an existing improvement located on a site both of which are owned by a person who is willing to enter into a lease-purchase agreement with the government covering the improvement and site, no public bid need be called and the lease-purchase agreement may be negotiated with the owner-lessor, except to the extent that any construction, remodeling, repairing or altering is to be done in connection therewith.

**Sec. 137A-10. Financing by lessor or contractor.** In order to facilitate the financing of the improvement by the lessor or contractor, the government may :

- (a) Permit the assignment of the annual payments.
- (b) Permit title to the land (if owned by the lessor or contractor) and improvements to be transferred to and held by any trustee, corporation, individual or entity acceptable to the government.
- (c) Permit the lessor or contractor to mortgage the improvements and his leasehold interest in a government-owned site.
- (d) Begin the annual payments on a date certain in the event of a prolonged force majeure precluding completion of the improvement prior to such date.
- (e) Unequivocally agree to complete payment of all installments provided for under the agreement or contract.

**Sec. 137A-11. Availability of money.** Nothing in this chapter shall be interpreted as permitting the incurring of a debt or obligation on behalf of a government for the discharge of which there is no available appropriation. The annual payments provided for under a lease-purchase agreement or purchase contract for the financing, construction or acquisition of a public improvement for which there has been an appropriation either out of general revenues or out of moneys obtained on account of bond funds may be paid out of such appropriation; **provided**, that the total amount of principal under such agreement or contract as determined under section 137A-5 (e) (i) shall not exceed the total amount appropriated for such public improvement.

**Sec. 137A-12. Limit of bonded indebtedness not affected.** Amounts for which a government is obligated under lease-purchase agreements or purchase contracts shall not be considered in calculating the bonded indebtedness of a government."



SECTION 2. This Act shall take effect upon its approval by the Congress of the United States of America which it is hereby respectfully requested to do.

(Approved June 6, 1957.) S.B. 671, Act 306.

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ACT 307

An Act to Amend Part I of Chapter 186, Revised Laws of Hawaii 1955, Relating to Partnerships in General.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Part I of chapter 186, Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(1) By amending section 186-1 thereof to read as follows:

**"Sec. 186-1. Registration and annual statements.** Whenever any general or limited partnership is formed under the laws of the Territory to do business in the Territory, or any partnership formed under the laws of any other jurisdiction shall do business in the Territory, such partnership shall file in the office of the treasurer of the Territory the registration and annual statements hereinafter provided. Every partnership now existing under the laws of the Territory shall also file the annual statements hereinafter provided. A registration statement shall be filed by a partnership formed under the laws of the Territory within thirty days after the partnership is formed and by a partnership formed under the laws of any other jurisdiction within thirty days after the commencement of business in the Territory. An annual statement shall be filed on or before March 31 of each year, as of December 31 of the preceding year. Every such registration statement shall contain the following information:

- (a) The name of the partnership;
- (b) The nature of the partnership (whether general, limited, special or other);
- (c) The name and residence of each partner, and whether he is a general, limited, special or other kind of partner;
- (d) The nature of the partnership business;
- (e) The location of the principal place of business of the partnership in the Territory; and, if the partnership is one formed under the laws of any other jurisdiction, the name of the jurisdiction and the location of the principal place of business of the partnership;
- (f) The date the partnership was formed; and, if the partnership is one formed under the laws of any other jurisdiction, the date the partnership commenced business in the Territory;
- (g) The fact that none of the partners is either a minor or an incompetent person.

Every such annual statement shall contain the information

specified in subparagraphs (a), (c), (d), (e) and (g) above.

The registration statement shall be acknowledged by each partner. Each annual statement shall be certified as correct by any general partner. A registration statement need not be filed by any limited partnership which has complied with the provisions of section 186-21.

Any partnership formed under the laws of any other jurisdiction and now doing business in the Territory shall have ninety days from and after the effective date of this Act within which to file a registration statement."

(2) By amending section 186-2 thereof to read as follows:

**"Sec. 186-2. Partnership name.** No partnership shall take or use a name which is identical with any name registered in the office of the treasurer under the provisions of any statute, or which is so nearly similar to any such name as to lead to confusion or uncertainty. No statement or certificate of any partnership showing a name in violation of the provisions hereof shall be recorded by the treasurer."

(3) By amending section 186-3 thereof to read as follows:

**"Sec. 186-3. Partnership name; change of.** Whenever any partnership shall change its partnership name, it shall within thirty days thereafter file in the office of the treasurer a statement showing: (a) the registered name of the partnership, and (b) the new name of the partnership; **provided**, however, that such statement need not be filed by a limited partnership which has filed a writing to amend its certificate pursuant to section 186-44. The statement shall be signed and certified as correct by any general partner."

(4) By amending section 186-4 thereof to read as follows:

**Sec. 186-4. Admission, withdrawal or death of a partner.** Whenever a new partner is admitted to any partnership, or a partner withdraws from any partnership, or whenever any partner dies, a statement of such admission, withdrawal or death shall be filed in the office of the treasurer within thirty days after such addition, withdrawal or death; **provided** however, that such statement need not be filed by a limited partnership which has filed a writing to amend its certificate pursuant to section 186-44. Such statement shall be acknowledged by each partner added or withdrawn, except as hereinafter provided, and by all other remaining partners. If a partner withdraws and cannot be located, the statement shall set forth those facts and need not be signed or acknowledged by such partner."

(5) By amending section 186-5 thereof to read as follows:

**"Sec. 186-5. Taxes, etc., a prior lien on partnership property on dissolution.** Upon dissolution of a partnership, any lawful taxes, imposts, license fees or assessments for which the partnership, or any partner in respect thereof, is liable shall constitute a prior lien upon the assets of the partnership but not as against the interest of those creditors who have prior recorded liens."

(6) By amending section 186-7 thereof to read as follows:

**"Sec. 186-7. Record of statements.** The treasurer shall cause

books or files to be kept in his office, in which shall be recorded the several particulars required by this part to be filed in his office; and such books or files shall be open to public inspection."

(7) By amending section 186-8 thereof to read as follows:

**"Sec. 186-8. Fee for recording.** For each name recorded as aforesaid or for each annual statement filed as required, there shall be paid to the treasurer a fee of \$1."

(8) By amending section 186-9 thereof to read as follows:

**"Sec. 186-9. Personal liability and penalty.** (a) Every partner who neglects or fails to comply with any provision of this part shall be liable severally and individually for all the debts and liabilities of the partnership, and may be severally sued therefor, without the necessity of joining the other partners in any action or suit, and shall also severally forfeit to the Territory \$25 for each and every month while the default shall continue, to be recovered by action brought in the name of the Territory by the treasurer; **provided**, that as to the forfeiture penalty, the treasurer may, for good cause shown, reduce or waive the same.

(b) Any person who signs and acknowledges or certifies as correct any statement or certificate filed pursuant to this part, knowing the same to be false in any material particular, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding \$5,000.

(c) Any person who negligently but without intent to defraud signs and acknowledges or certifies as correct any statement or certificate filed pursuant to this part, which statement or certificate is false in any material particular, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding \$500."

(9) By amending section 186-10 thereof to read as follows:

**"Sec. 186-10 Cancellation of registration.** If any partnership, whether general, limited, special or other, fails or neglects for a period of two years to file any annual statement as required by this part, the treasurer may cancel the registration or the certificate, as the case may be, of such partnership. The cancellation of such registration or certificate shall not relieve the partners of liability for the penalties for the failure to file any statement or certificate required by this part."

(10) By adding thereto a new section 186-1.1, following section 186-1 and reading as follows:

**"Sec. 186-1.1. Forms to be furnished by treasurer; acknowledgments.** The registration, annual and other statements required by this part shall be filed on forms to be furnished by the treasurer. Statements required to be acknowledged shall be acknowledged before a notary public or other officer in the manner provided by law for acknowledgment of deeds."

(11) By adding thereto a new section 186-1.2, following section 186-1.1 and reading as follows:

**"Sec. 186-1.2. Foreign partnerships, powers and liabilities.** A partnership formed under the laws of any other jurisdiction,

shall, on filing a registration statement as required by section 186-1 and subject to continuing compliance with the other provisions of this part, have the same powers and privileges, and be subject to the same disabilities as are by law conferred upon partnerships formed under the laws of the Territory, **provided** always that the purposes for which the partnership is formed are not repugnant to or in conflict with any law of the Territory."

(12) By adding thereto a new section 186-1.3, following section 186-1.2 and reading as follows:

**"Sec. 186-1.3. Partnership between husband and wife; prima facie proof.** If any business tax return is filed by, or license to do business is issued in the names of, both husband and wife, such tax return or license shall constitute prima facie proof, insofar as the Territory or any of its political subdivisions is concerned, that a partnership in such business exists between husband and wife in respect of such business. If the business tax return is filed by, or license is issued in the name of, one of them only, it shall constitute like proof that said husband and wife are not partners in respect of such business."

(13) By adding thereto a new section 186-1.4, following section 186-1.3 and reading as follows:

**"Sec. 186-1.4. Minors and incompetent persons.** A minor or incompetent person may not be a partner, but may have a beneficial interest in a partnership through a trustee or duly appointed guardian. Such trustee or guardian may be a limited partner only.

This section shall not apply to the current partners in any duly registered partnership now doing business in the Territory."

(14) By adding thereto a new section 186-4.1, following section 186-4 and reading as follows:

**"Sec. 186-4.1. Statement of dissolution.** Whenever any partnership is dissolved, a statement thereof showing the cause of dissolution shall be filed in the office of the treasurer within thirty days after dissolution; **provided**, that such statement need not be filed by a limited partnership which has filed a writing to cancel its certificate pursuant to section 186-44. The statement shall be acknowledged by all partners except in such cases as the circumstances make it obviously impossible to secure the signature of one or more partners, which circumstances shall be set forth in the statement."

(15) By repealing section 186-6 thereof.

SECTION 2. This Act shall take effect upon its approval.

(Approved June 7, 1957.) **S.B. 291, Act 307.**

## ACT 308

An Act Relating to the Parole of Felons and Amending Chapter 83, Part II, Sections 83-64, 83-65, 83-66 and 83-68 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 83-64 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 83-64. Paroles; rules and regulations.** The board of paroles and pardons may establish rules and regulations, with the approval of the governor, not inconsistent with the provisions of this part, under which any such prisoner may be paroled but remain, while on parole, in the legal custody and under the control of the board, and subject, at any time until the expiration of the term for which he was sentenced, to be taken back within the enclosure of the prison. Such rules and regulations shall become effective and shall have the force and effect of law upon approval of the governor and publication thereof as required by law. Full power, subject to the provisions of this part, to enforce such rules and regulations, to grant, and to revoke paroles, and to retake and reimprison any paroled prisoner under the board's control, is conferred upon the board, the written order of which, certified by the chairman, shall be a sufficient warrant for all officers named therein to authorize any such officers to return to actual custody any paroled prisoner. The warden of Oahu prison, the sheriff or chief of police of each county and all police officers of the Territory or of any county and all prison officers shall execute any such order in like manner as ordinary criminal process.

If any prisoner so paroled leaves the Territory without permission from the board, he shall be deemed to be an escaped prisoner, and may be arrested as such."

SECTION 2. Section 83-65 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) By substituting for the period a semicolon at the end of the first paragraph thereof and adding the following language:

**"provided,** however, that when a person is convicted in the Territory of a crime committed while on parole and is sentenced to imprisonment, no hearing shall be required in order to revoke his parole."

(b) By amending the last paragraph to read as follows:

**"Any** paroled prisoner retaken and reimprisoned as provided in this chapter shall be confined according to his sentence for that portion of his term remaining unserved at time of parole, but successive paroles may, in the discretion of the board, be granted to such prisoner during the life and in respect of such sentence."

SECTION 3. Section 83-66 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 83-66. Parole, how initiated and granted.** (a) Paroles may be granted by the board at any time after the prisoner has

served the minimum term of imprisonment fixed according to law, **provided** that where a fine or fine and costs have also been imposed, which have not been paid, and if the prisoner has been imprisoned for at least thirty days, the board, upon being satisfied that the prisoner could qualify as a poor convict as defined in section 259-3, and upon such prisoner taking an oath before any officer authorized to administer oaths in the form prescribed by section 259-3, may nevertheless parole the prisoner without payment of the fine or fine and costs, either with or without the condition that while on such parole he make payment of such fine or fine and costs, as the board deems proper under the circumstances. The proceedings to obtain parole may be initiated by the written recommendation of the warden to the board of paroles and pardons or may be initiated by the board without any such recommendation.

(b) The governor shall have like power to revoke the parole of any prisoner. The written authority of the governor shall likewise be sufficient to authorize any police officer to retake and return said prisoner to prison. His written order revoking the parole shall have the same force and effect and be executed in like manner as the order of the chairman of the board.

(c) The board shall act by a majority of all its members in respect to all proceedings touching the parole of prisoners."

SECTION 4. Section 83-68 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 83-68. Final discharge.** Whenever, in its opinion, any paroled prisoner has given such evidence as is deemed reliable and trustworthy that he will remain at liberty without violating the law and that his final release is not incompatible with the welfare of society, the board may grant the prisoner a written discharge from further liability under his sentence, which may be revoked by the governor within 90 days after the date of such written discharge.

Any person, who, while on parole, entered the military service of the United States, may, upon his honorable discharge therefrom, petition the board for a final discharge, and the board may consider the honorable discharge as grounds for granting a final discharge from parole and recommending to the governor a full pardon."

SECTION 5. This Act shall take effect upon its approval.

(Approved June 7, 1957.) **S.B. 473, Act 308.**

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### ACT 309

An Act Amending Chapter 64 of the Revised Laws of Hawaii 1955 by Adding Thereto a New Section Numbered "64-14", Relating to Medicine and Surgery and Providing for the Giving of Consent Before the Performance of Post-Mortem Examination.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 64 of the Revised Laws of Hawaii 1955 is

hereby amended by adding thereto a new section numbered "64-14" to read as follows:

**"Sec. 64-14. Who shall give consent to a post-mortem examination.** A pathologist or any licensed physician or surgeon may conduct a post-mortem examination when written consent thereto is given by whoever of the following assumes custody of the body for purposes of burial: father, mother, husband, wife, child, guardian, next of kin, or, in the absence of any of the foregoing, a friend or person, including a governmental agency, charged by law with the responsibility for the burial. If two or more such persons assume custody of the body, the consent of one of them shall be sufficient."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 7, 1957.) **S.B. 638, Act 309.**

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### ACT 310

An Act to Amend Chapter 181 of the Revised Laws of Hawaii 1955 Relating to the Insurance Laws of the Territory of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 181-27 is hereby added to chapter 181, Revised Laws of Hawaii 1955, to read as follows:

**"Sec. 181-27. Records, statements and reports.**

(a) All records, statements and reports required or authorized by this chapter shall be made in writing in the English Language.

(b) All statements, estimates, percentages, payments and calculations required or authorized by this chapter shall be made on the basis of the lawful money of the United States."

SECTION 2. Section 181-112 is hereby added to chapter 181, Revised Laws of Hawaii 1955, to read as follows:

**"Sec. 181-112. Alien government owned insurers.** No license to transact any kind of insurance business in this Territory shall be issued or renewed to any foreign or alien insurer or issued or continued in effect to any domestic insurer which is owned or financially controlled by another state of the United States other than this Territory, or by a foreign government or by any political subdivision of either, or which is an agency or instrumentality of any such state, government or subdivision, unless such insurer was so owned or controlled prior to January 1, 1957 and was authorized to do business in this Territory on or prior to said date."

SECTION 3. Section 181-113 is hereby added to chapter 181, Revised Laws of Hawaii 1955, to read as follows:

**"Sec. 181-113. Free insurance.** Except as otherwise provided by law, no insurer, either domestic, foreign or alien, shall issue or caused to be issued, any policy of insurance of any type or description upon life or property, real or personal, whenever such policy

of insurance is to be furnished or delivered to the purchaser or bailee of any property, real or personal, either as an inducement to purchase or bailment of said property, real or personal, or as a part of the consideration for the purchase or bailment of such property, real or personal."

SECTION 4. **Section 181-361(a) (2)** of chapter 181, Revised Laws of Hawaii 1955, is amended by deleting the comma after the word "contracts" and substituting therefor a semicolon, and by deleting therefrom the following language: "except as to life insurance;"

SECTION 5. **Section 181-362 (a) (2)** of chapter 181, Revised Laws of Hawaii 1955, is amended by deleting the comma after the word "contracts" and substituting therefor a semicolon, and by deleting therefrom the following language: "except as to life insurance;"

SECTION 6. **Section 181-387** of chapter 181, Revised Laws of Hawaii 1955, is amended to read as follows:

**"Sec. 181-387. Limitations upon nonresident agent or broker.**

A nonresident agent or broker is authorized to place insurance on a subject of insurance located in this Territory, only under all of the following conditions:

(a) The insured, if an individual, is not domiciled within this Territory, or, if a partnership, each partner is not domiciled within this Territory, or, if a corporation, is a foreign corporation within the meaning of chapter 174, or was formed or organized under the laws of any other territory of the United States;

(b) Any negotiation between the nonresident agent or broker and the insured, leading up to the placement of the insurance, has taken place outside this Territory;

(c) The insurance is placed through a licensed general agent in this Territory of an authorized insurer;

(d) The provisions of items (a) and (b) shall not be applicable to insurance of aircraft or cargo of such aircraft, or against liability, other than workmen's compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft."

SECTION 7. **Section 181-400(a) (1)** of chapter 181, Revised Laws of Hawaii 1955, is amended to read as follows:

"(1) To the surviving spouse, next of kin, employee or administrator or executor of a licensed general agent or subagent or solicitor becoming deceased."

SECTION 8. **Section 181-400(a)** of chapter 181, Revised Laws of Hawaii 1955, is amended by adding thereto subparagraph (5) to read as follows:

"(5) To the individual placed in charge of a branch office maintained in this Territory by a foreign or alien insurer upon the death or disability of its general agent."

SECTION 9. **Section 181-562(d)** of chapter 181, Revised Laws of Hawaii 1955, is amended by inserting the word "thirty" in place of the word "twenty" in said section and by inserting the word "fifty" in place of the word "forty" in said section.



**SECTION 10. Section 181-643(a)** of chapter 181, Revised Laws of Hawaii 1955, is amended by deleting the period at the end of subparagraph (5) and substituting therefor a semicolon and adding the word "or", and by adding to this section subparagraphs (6) and (7) to read as follows:

"(6) publishing or advertising the assets of any insurer without publishing or advertising with equal conspicuousness the liabilities of such insurer, both as shown by its last annual statement; or

(7) publishing or advertising the capital of any insurer without stating specifically the amount of paid in and subscribed capital."

**SECTION 11. Sections 181-643(g), (h) and (i)** of chapter 181, Revised Laws of Hawaii 1955, are hereby amended to read as follows:

"(g) Unfair discrimination:

(1) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; or

(2) Making or permitting any unfair discrimination in favor of particular individuals or persons, or between insureds or subjects of insurance having substantially like insuring, risk and exposure factors, or expense elements, in the term or conditions of any insurance contract, or in the rate or amount of premium charged therefor, or in the benefits payable or in any other rights or privilege accruing thereunder.

(h) Rebates. Except as otherwise expressly provided by law:

(1) Knowingly permitting or offering to make or making any contract of insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or

(2) Giving, or selling, or purchasing or offering to give, sell or purchase as inducement to such insurance or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(i) Nothing in item (g) or item (h) of this section shall be construed as including within the definition of discrimination or rebates any of the following practices:

(1) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from non-participating insurance, **provided** that any such bonuses or abate-

ment of premiums shall be fair and equitable to policyholders and for the best interests of the insurer and its policyholders;

(2) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;

(3) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;

(4) In the case of any contract of insurance, the distribution of savings, earnings or surplus equitably among a class of policyholders, all in accordance with the provisions of this chapter."

**SECTION 12. Section 181-693(a)** of chapter 181, Revised Laws of Hawaii 1955, is amended by adding thereto subparagraph (5) to read as follows:

"(5) No insurer authorized to do business in this Territory shall issue any policy which provides or makes available to any risks preferred rates based upon any grouping of persons, firms or corporations by way of membership, license, franchise, contract, agreement or any other method or means, other than common majority ownership of such risks, or except where a common stock ownership in and management control of such risks are held by the same person, corporation or firm, or except where permitted or authorized by filings in existence as of January 1, 1957 under sections 181-691 to 181-707, as such filings may be amended from time to time, or except where otherwise expressly provided by law."

**SECTION 13. Section 181-713(a)** of chapter 181, Revised Laws of Hawaii 1955, is amended by adding thereto subparagraph (4) to read as follows:

"(4) No insurer authorized to do business in this Territory shall issue any policy which provides or makes available to any risks preferred rates based upon any grouping of persons, firms or corporations by way of membership, license, franchise, contract, agreement or any other method or means, other than common majority ownership of such risks, or except where a common stock ownership in and management control of such risks are held by the same person, corporation or firm, or except where permitted or authorized by filings in existence as of January 1, 1957 under sections 181-711 to 181-726, as such filings may be amended from time to time, or except where otherwise expressly provided by law."

**SECTION 14. Sections 181-568 to 181-580** of chapter 181, Revised Laws of Hawaii 1955, are hereby renumbered to read as **sections 181-570 to 181-582**.

**SECTION 15.** Chapter 181, Revised Laws of Hawaii 1955, is hereby amended by adding a new section 181-568 to read as follows:

**"Sec. 181-568. Professional association groups.** The lives of a group of individuals may be insured under a policy issued to an association of professional persons, which shall be deemed the policyholder, to insure members of such association for the benefit of persons other than the association or any of its officials subject to the following requirements:

(a) The association must have been formed for purposes other than obtaining insurance and have when the policy is placed in force, a membership in the classes eligible for insurance of not less than seventy-five per cent of the number of professional persons eligible for membership in such classes.

(b) The members eligible for insurance under the policy shall be all of the members of the association, or all of any class or classes thereof determined by conditions pertaining to their profession or to membership in the association, or both.

(c) The premium for the policy shall be paid by the policyholder, either from the association's own funds or from charges collected from the insured members specifically for the insurance, or from both. No policy may be placed in force unless and until at least seventy-five per cent of the then eligible members of the association, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, have elected to be covered and have arranged for payment of their individual contributions to the association. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(d) Charges collected from the insured members specifically for the insurance, and the dues of the association if they include the cost of insurance, may be determined according to each attained age or in not less than four reasonably spaced attained age groups.

(e) The policy must cover at least twenty-five persons at date of issue.

(f) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the association. No policy may be issued which provides term insurance on any member which together with any other term insurance under any group life insurance policy or policies issued to the association, exceeds twenty thousand dollars.

(g) As used herein "professional persons" means persons practicing a profession requiring examination and licensing under chapters 61, 64, 164, 166 and 217 of the Revised Laws of Hawaii 1955."

SECTION 16. Chapter 181, Revised Laws of Hawaii 1955, is hereby amended by adding a new section 181-569 to read as follows:

**"Sec. 181-569. Credit union groups.** The lives of the members of a credit union may be insured under a policy issued to the credit union, which shall be deemed the policyholder, to insure members

of such credit union for the benefit of persons other than the credit union or any of its officials, subject to the following requirements:

(a) The credit union must have been formed for purposes other than obtaining insurance.

(b) The members eligible for insurance under the policy shall be all of the members of the credit union, except any as to whom evidence of individual insurability is not satisfactory to the insurer, and the amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the credit union. No policy may be issued which provides term insurance on any member which together with any other term insurance under any group life insurance policy or policies issued to the credit union under this section exceeds two thousand dollars.

(c) The premiums for the policy shall be paid by the policyholder either from the credit union's own funds or from charges collected from the insured members specifically for the insurance, or from both; **provided**, however, that when the premium is paid by the members, or by the credit union and its members jointly, at least seventy-five per cent of the then eligible members, excluding any as to whom evidence of insurability is not satisfactory to the insurer, must elect to make the required contributions.

(d) As used herein a 'credit union' means a credit union chartered under the provisions of the Federal Credit Union Act as now or hereafter amended."

SECTION 17. Section 181-568 of chapter 181, Revised Laws of Hawaii 1955, renumbered as section 181-570 by section 13 of this Act, is hereby amended to read as follows:

**"Sec. 181-570. Standard provisions required.** No policy of group life insurance shall be delivered or issued for delivery in this Territory unless it contains in substance the standard provisions as required by sections 181-570 to 181-580, or provisions which in the opinion of the commissioner are more favorable to the individuals insured, or at least as favorable to such individuals and more favorable to the policyholder; except that:

(a) Provisions set forth in sections 181-576 to 181-580 shall not apply to policies issued to a creditor to insure its debtors, and to policies issued to a credit union to insure its members.

(b) If the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision or provisions which in the opinion of the commissioner is or are equitable to the insured persons and to the policyholder, but such nonforfeiture benefits are not required to be the same as those required for individual life insurance policies."

SECTION 18. **Section 181-561(a)** of chapter 181, Revised Laws of Hawaii 1955, is amended by deleting the figures "181-580" in the fifth line thereof and substituting therefor the figures "181-582".

SECTION 19. **Section 181-575** of chapter 181, Revised Laws of Hawaii 1955, renumbered as section 181-577 by section {14} of this Act,

is hereby further amended by deleting the figures "181-576, 181-577 and 181-578" in the seventh line thereof and substituting therefor the figures "181-578, 181-579 and 181-580".

SECTION 20. **Section 181-577** of chapter 181, Revised Laws of Hawaii 1955, renumbered as section 181-579 by section [14] of this Act, is hereby further amended by deleting the figures "181-576" in the tenth line thereof and substituting therefor the figures "181-578".

SECTION 21. **Section 181-563(d)** of chapter 181, Revised Laws of Hawaii 1955, is amended by deleting therefrom the words "five thousand dollars" and substituting therefor the words "ten thousand dollars".

SECTION 22. This Act shall take effect upon its approval.

(Approved June 7, 1957.) **S.B. 682, Act 310.**

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### ACT 311

An Act Relating to Enforcement of Lien on Personalty for Work Done and Materials Furnished, and Amending Chapter 193, Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 193, Revised Laws of Hawaii 1955, is hereby amended by adding a new section thereto, to be numbered and to read as follows:

**"Sec. 193-26.** Notwithstanding the provisions of sections 193-21 to 193-25, inclusive, in the event the reasonable charges for the work done and materials furnished do not exceed \$50, the holder of any lien provided for in section 193-21 may, in lieu of obtaining judgment and execution upon the property so held by him, sell the article of personal property upon which the alterations or repairs have been made in the manner hereinafter set forth and apply the proceeds of the sale in satisfaction of the reasonable charges for the work done and materials furnished; **provided** that the article shall have been unclaimed for at least six months, and **provided further** that the owner of the article shall have agreed in writing that the value of the article does not exceed \$100. The holder of the lien shall give public notice by publication in a newspaper of general circulation in the Territory, said publication to be not less than 10 days prior to the date of sale, and shall also notify the owner of such sale by sending a letter by registered mail to the last known address of the owner at least 30 days prior to the sale. The notice shall particularly describe the article to be sold, the name of the owner, the date and place of the sale, and the amount of the reasonable charges. At the time and place so published, the article may be sold and the purchaser shall succeed to the title of the owner. Out of the proceeds of the sale the holder of the lien may retain the amount of the reasonable charges, the cost of publication and other expenses incident to the sale. Any balance

remaining unclaimed by the owner of the article within 30 days from the date of the sale shall be deposited with the treasurer of the Territory and shall be payable to the owner of the article if claimed within one year from the date of the sale. If no claim is made for the balance within such period, the moneys so deposited shall become a government realization."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 7, 1957.) **S.B. 709, Act 311.**

### ACT 312

An Act Creating a New Chapter to Permit Tort Claims Against the Territory of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Title 29 of the Revised Laws of Hawaii 1955 is hereby amended by adding a new chapter thereto, relating to tort claims against the Territory of Hawaii, consisting of seventeen sections to be appropriately numbered by the Secretary of Hawaii and to read as follows:

"**Sec. [245A-16]. Short title.** This chapter may be cited as the 'Territorial Tort Liability Act'.

**Sec. [245A-1]. Definitions.** As used in this chapter the term:

(a) 'Territorial agency' includes the executive departments, boards and commissions of the Territory of Hawaii but does not include any contractor with the Territory of Hawaii;

(b) 'Employees of the Territory' includes officers and employees of any territorial agency, members of the Hawaii National Guard, Hawaii Territorial Guard and persons acting in behalf of a territorial agency in an official capacity, temporarily, whether with or without compensation;

(c) 'Acting within the scope of his office or employment', in the case of a member of the Hawaii National Guard or Hawaii Territorial Guard, means acting in line of duty.

**Sec. [245A-2]. Waiver and liability of Territory.** The Territory hereby waives its immunity for liability for the torts of its employees and shall be liable in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages. If, however, in any case wherein death was caused, the Territory shall be liable only for actual or compensatory damages measured by the pecuniary injuries resulting from such death to the persons respectively, for whose benefit the action was brought.

**Sec. [245A-3]. Jurisdiction.** The circuit courts of the Territory of Hawaii shall have exclusive jurisdiction of all tort actions on claims against the Territory of Hawaii, for money damages, accruing on and after July 1, 1957 for injury or loss of property, or personal injury or death caused by the negligent or wrongful act

or omission of any employee of the Territory while acting within the scope of his office or employment.

**Sec. [245A-4]. Statute of limitation.** A tort claim against the Territory of Hawaii shall be forever barred unless action is begun within two years after such claim accrues.

**Sec. [245A-5]. Jury.** Any action against the Territory of Hawaii under this chapter shall be tried by the court without a jury.

**Sec. [245A-6]. Pleadings, trial and appeal.** The Hawaii Rules of Civil Procedure shall be followed in any action under this chapter. A certified copy of all pleadings shall be duly served on the attorney general.

**Sec. [245A-7]. Attorney General.** The Territory shall be represented by the attorney general of the Territory of Hawaii in all actions under this chapter.

**Sec. [245A-8]. Interest.** On all final judgments rendered against the Territory of Hawaii in actions instituted under this chapter, interest shall be computed at the rate of four per cent per annum from the date of judgment up to, but not exceeding, thirty days after the date of approval of any appropriation act providing for payment of the judgment.

**Sec. [245A-9]. Costs.** In an action under this chapter, court costs and fees as set by law, except attorney's fees, shall be allowed to the successful claimant.

**Sec. [245A-10]. Judgment as bar.** The judgment in an action under this chapter shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of the Territory whose act or omission gave rise to the claim.

**Sec. [245A-11]. Compromise.** The attorney general, with the approval of the court, may arbitrate, compromise, or settle any claim cognizable under this chapter, after the commencement of an action thereon.

**Sec. [245A-12]. Attorney's fees.** The court rendering a judgment for the plaintiff pursuant to this chapter or the attorney general making a disposition pursuant to section [245A-11] of this chapter may, as a part of such judgment, award or settlement, determine and allow reasonable attorney's fees which shall not, however, exceed twenty per cent of the amount recovered.

**Sec. [245A-13]. No awards except upon legal evidence.** In no case shall any liability be implied against the Territory, and no award shall be made against the Territory except upon such legal evidence as would establish liability against an individual or corporation.

**Sec. [245A-14]. Exclusiveness of remedy.** The authority of the Territory to sue and be sued in its own name shall not be construed to authorize any other suits against the Territory and the rights and remedies provided by this chapter shall be exclusive.

**Sec. [245A-15]. Exceptions.** The provisions of this chapter shall not apply to:

(a) Any claim based upon an act or omission of an employee of the Territory, exercising due care, in the execution of a statute or regulation, whether such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a territorial officer or employee, whether or not the discretion involved be abused;

(b) Any claim arising in respect of the assessment or collection of any tax, or the detention of any goods or merchandise by law enforcement officers;

(c) Any claim by which a remedy is provided elsewhere in the laws of the Territory;

(d) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights;

(e) Any claim arising out of the combatant activities of the Hawaii National Guard and Hawaii Territorial Guard during time of war;

(f) Any claim arising in a foreign country.

**Sec. [245A-17].** All other laws inconsistent with the provisions of this chapter are hereby repealed or amended to conform thereto."

**SECTION 2.** The provisions of this Act are declared to be severable, and if any portion of this Act, or if the application of this Act or any portion thereof is held invalid for any reason, the validity of the remainder of this Act shall not be affected.

**SECTION 3.** This Act shall take effect on July 1, 1957.

(Approved June 7, 1957.) **S.B. 892, Act 312.**

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## ACT 313

An Act Relating to Gifts of Securities and Money to Minors and to Make Uniform the Law With Reference Thereto.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Definitions.** In this Act, unless the context otherwise requires:

(a) An "adult" is a person who has attained the age of twenty-one years.

(b) A "bank" is a bank, trust company, national banking association, or building and loan association, and shall include any corporation included in the meaning of said terms as defined in chapters 178, 179 and 180, Revised Laws of Hawaii 1955, as amended.

(c) A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes



a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

(d) "Court" means any of the circuit courts of the Territory.

(e) "The custodial property" includes:

(1) all securities and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this Act.

(2) the income from the custodial property; and

(3) the proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment or other disposition of such securities, money and income.

(f) A "custodian" is a person so designated in a manner prescribed in this Act.

(g) A "guardian" of a minor includes the general guardian, guardian, tutor or curator of his property, estate or person.

(h) An "issuer" is a person who places or authorizes the placing of his name on a security (other than as a transfer agent) to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

(i) A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.

(j) A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

(k) A "minor" is a person who has not attained the age of twenty-one years.

(l) A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

(m) A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

(n) A "trust company" is a bank authorized to exercise trust powers in the Territory.

**SECTION 2. Manner of making gift.** (a) An adult person may, dur-

ing his lifetime, make a gift of a security or money to a person who is a minor on the date of the gift:

(1) if the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult person or a trust company, followed, in substance, by the words: "as custodian for.....  
(name of minor)

under the Hawaii Uniform Gifts to Minors Act";

(2) if the subject of the gift is a security not in registered form, by delivering it to an adult person other than the donor or a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

**"GIFT UNDER THE HAWAII  
UNIFORM GIFTS TO MINORS ACT**

I, ....., hereby deliver to .....  
(name of donor) (name of custodian)  
as custodian for.....under the Hawaii Uniform  
(name of minor)

Gifts to Minors Act, the following security (ies): (insert an appropriate description of the security or securities delivered sufficient to identify it or them)

.....  
(signature of donor)  
.....hereby acknowledges receipt of the  
(name of custodian)

above-described security (ies) as custodian for the above minor under the Hawaii Uniform Gifts to Minors Act.

Dated.....  
(signature of custodian)";

(3) if the subject of the gift is money, by paying or delivering it to a broker or a bank for credit to an account in the name of the donor, another adult person or a bank with trust powers, followed, in substance, by the words: "as custodian for.....under the Hawaii  
(name of minor)

Uniform Gifts to Minors Act."

(b) Any gift made in a manner prescribed in subsection (a) may be made to only one minor and only one person may be the custodian.

(c) A donor who makes a gift to a minor in a manner prescribed in subsection (a) shall promptly do all things within his power to put the subject of the gift in the possession and control of the custodian, but neither the donor's failure to comply with this subsection, nor his designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift.

**SECTION 3. Effect of gift.** (a) A gift made in a manner prescribed in this Act is irrevocable and conveys to the minor indefeasibly vested legal title to the security or money given, but no guardian of the minor has any right, power, duty or authority with respect to the custodial property except as provided in this Act.

(b) By making a gift in a manner prescribed in this Act, the donor incorporates in his gift all the provisions of this Act and grants to the custodian, and to any issuer, transfer agent, bank, broker or third person dealing with a person designated as custodian, the respective powers, rights, and immunities provided in this Act.

**SECTION 4. Duties and powers of custodian.** (a) The custodian shall collect, hold, manage, invest and reinvest the custodial property.

(b) The custodian shall pay over to the minor for expenditure by him, or expend for the minor's benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or of any other person to support the minor or his ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

(c) The court, on the petition of a parent or guardian of the minor or of the minor, if he has attained the age of fourteen years, may order the custodian to pay over to the minor for expenditure by him or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance or education.

(d) To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of twenty-one years or, if the minor dies before attaining the age of twenty-one years, he shall thereupon deliver or pay it over to the estate of the minor.

(e) The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this Act.

(f) The custodian may sell, exchange, convert or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote in person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer, a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

(g) The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words: "as custodian for....."

(name of minor)

under the Hawaii Uniform Gifts to Minors Act". The custodian shall

hold all money which is custodial property in an account with a broker or in a bank in the name of the custodian, followed, in substance, by the words: "as custodian for.....under the Hawaii

(name of minor)

Uniform Gifts to Minors Act". The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property; **provided**, that a custodian which is a trust company may invest any part or all of the custodial property in any common trust fund established by it.

(h) The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if he has attained the age of fourteen years.

(i) A custodian has, with respect to the custodial property, in addition to the rights and powers provided in this Act, all the rights and powers which a guardian has with respect to property not held as custodial property.

**SECTION 5. Custodian's expenses, compensation, bond and liabilities.** (a) A custodian is entitled to reimbursement from the custodial property for his reasonable expenses incurred in the performance of his duties.

(b) A custodian may act without compensation for his services.

(c) Unless he is a donor, a custodian may receive from the custodial property, and the court may allow, such compensation as shall be fixed by written direction of the donor at the time the gift is made, or, in the absence of such direction, such compensation as shall be provided by law with respect to a guardian.

(d) Except as otherwise provided in this Act, a custodian shall not be required to give a bond for the performance of his duties.

(e) A custodian not compensated for his services is not liable for losses to the custodial property unless they result from his bad faith, intentional wrongdoing or gross negligence or from his failure to maintain the standard of prudence in investing the custodial property provided in this Act.

**SECTION 6. Exemption of third persons from liability.** No issuer, transfer agent, bank, broker or other person acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated by the purported donor or purporting to act as a custodian has been duly designated or whether any purchase, sale or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this Act, or is obliged to inquire into the validity or propriety under this Act of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him.

**SECTION 7. Resignation, death or removal of custodian; bond; appointment of successor custodian.** (a) Only an adult member of the

minor's family, a guardian of the minor or a trust company is eligible to become successor custodian. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this Act.

(b) A custodian, other than the donor, may resign and designate his successor by:

(1) executing an instrument of resignation designating the successor custodian; and

(2) causing each security which is custodial property and in registered form to be registered in the name of the successor custodian followed, in substance, by the words: "as custodian for....."

(name of minor)

under the Hawaii Uniform Gifts to Minors Act"; and

(3) delivering to the successor custodian the instrument of resignation, each security registered in the name of the successor custodian and all other custodial property, together with any additional instruments required for the transfer thereof.

(c) A custodian, whether or not a donor, may petition the court for permission to resign and for the designation of a successor custodian.

(d) If the person designated as custodian is not eligible, renounces or dies before the minor attains the age of twenty years, the guardian of the minor shall be successor custodian. If the minor has not attained the age of twenty years and has no guardian, a donor, his legal representative, the legal representative of the custodian, an adult member of the minor's family, or the minor, if he has attained the age of fourteen years, may petition the court for the designation of a successor custodian. If the minor has attained the age of twenty years, the minor may designate the successor custodian.

(e) A donor, the legal representative of a donor, an adult member of the minor's family, a guardian of the minor or the minor, if he has attained the age of fourteen years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his duties.

(f) Upon the filing of a petition as provided in this section, the court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor.

**SECTION 8. Accounting by custodian.** (a) The minor, if he has attained the age of fourteen years, or the legal representative of the minor, an adult member of the minor's family, or a donor or his legal representative may petition the court for an accounting by the custodian or his legal representative.

(b) The court, in a proceeding under this Act or otherwise, may require or permit the custodian or his legal representative to account and, if the custodian is removed, shall so require and order delivery of all custodial property to the successor custodian and the execution of all instruments required for the transfer thereof.

**SECTION 9. Construction.** (a) This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(b) This Act shall not be construed as providing an exclusive method for making gifts to minors.

(c) This Act shall not be construed so as to impair or limit any power conferred upon a bank by any other law.

**SECTION 10. Short title.** This Act may be cited as the "Hawaii Uniform Gifts to Minors Act".

**SECTION 11. Severability.** If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 12. Time of taking effect.** This Act shall take effect upon its approval.

(Approved June 7, 1957.) S.B. 210, Act 313.

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## ACT 314

An Act Amending Chapter 199 of the Revised Laws of Hawaii 1955 Relating to the Uniform Sale of Securities Act.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** Chapter 199 entitled the "Uniform Sale of Securities Act" is hereby amended as follows:

**"Sec. 199-1. Definitions.** When used in this chapter the following terms shall, unless the text otherwise indicates, have the following respective meanings:

(a) 'Commissioner' means the commissioner of securities of the Territory.

(b) 'Salesman' means any individual other than a dealer who represents a dealer or issuer in effecting or attempting to effect purchases or sales of securities. 'Salesman' does not include an individual who represents an issuer in (1) effecting transactions in a security exempted by clauses (a), (b), (c) or (j) of section 199-4, (2) effecting transactions exempted by section 199-5, or (3) effecting transactions with existing employees, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this Territory. A partner, officer or director of a dealer or issuer, or a person occupying a similar status or performing similar functions, is a salesman only if he otherwise comes within this definition.

(c) 'Dealer' means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. 'Dealer' does not include (1) a salesman, (2) an

issuer, or (3) a person who has no place of business in this Territory if (A) he effects transactions in this Territory exclusively with or through (i) the issuers of the securities involved in the transactions, (ii) other dealers, or (iii) banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (B) during any period of twelve consecutive months he does not direct more than fifteen offers to sell or to buy into this Territory in any manner to persons other than those specified in clause (A), whether or not the offeror or any of the offerees is then present in this Territory.

(d) 'Fraud', 'deceit', and 'defraud' are not limited to common-law deceit.

(e) 'Guaranteed' means guaranteed as to payment of principal, interest, or dividends.

(f) 'Investment adviser' means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. 'Investment adviser' does not include (1) a bank, savings institution, or trust company; (2) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession; (3) a dealer whose performance of these services is solely incidental to the conduct of his business as a dealer and who receives no special compensation for them; (4) a publisher of any bona fide newspaper, news magazine, or business of financial publication of general, regular, and paid circulation; (5) a person whose advice, analyses, or reports relate only to securities exempted by section 199-4 (a); (6) a person who has no place of business in this Territory if (A) his only clients in this Territory are other investment advisers, dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (B) during any period of twelve consecutive months he does not direct business communications into this Territory in any manner to more than five clients other than those specified in clause (A), whether or not he or any of the persons to whom the communications are directed is then present in this Territory; or (7) such other persons not within the intent of this paragraph as the commissioner may by rule or order designate.

(g) 'Issuer' means any person who issues or proposes to issue any security, except that (1) with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated

investment trust not having a board of directors (or persons performing similar functions) or of the fixed restricted management, or unit type, the term 'issuer' means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued; and (2) with respect to certificates of interest in oil, gas, or mining titles or leases, there is not considered to be any 'issuer'.

(h) 'Non-issuer' means not directly or indirectly for the benefit of the issuer.

(i) 'Person' means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(j) (1) 'Sale' or 'sell' includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value.

(2) 'Offer' or 'offer to sell' includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

(3) Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value.

(4) A purported gift of assessable stock is considered to involve an offer and sale.

(5) Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(6) The terms defined in this subsection do not include (A) any bona fide pledge or loan; (B) any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the dividend other than the surrender of a right to a cash or property dividend when each stockholder may elect to take the dividend in cash or property or in stock; (C) any act incident to a class vote by stockholders, pursuant to the articles of incorporation or the applicable corporation statute, on a merger, consolidation, reclassification of securities, or sale of corporate assets in consideration of the issuance of securities of another corporation; or (D) any act incident to a judicially approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash.

(k) 'Securities Act of 1933', 'Securities Exchange Act of 1934',



'Public Utility Holding Company Act of 1935', and 'Investment Company Act of 1940' mean the federal statutes of those names as amended before or after the effective date of this Act.

(l) 'Security' means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting-trust certificate; certificate of deposit for a security; certificate of interest in an oil, gas, or mining title or lease; or, in general, any interest or instrument commonly known as a 'security', or any certificate of interest or participation in, temporary or interim certificate for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. 'Security' does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specified period.

(m) 'State' means any State, Territory, or possession of the United States, as well as the District of Columbia and Puerto Rico.

**Sec. 199-2. Commissioner of securities; deputies; vacancy.** The administration of the provisions of this chapter shall be vested in the treasurer of the Territory who shall ex-officio be the commissioner of securities.

The commissioner may, with the approval of the governor, appoint as many deputies as shall be authorized by the legislature. The deputies appointed under this chapter shall perform such duties as the commissioner shall generally or specifically direct. In case of vacancy in the office of the commissioner, or in case of the temporary inability of the commissioner, by reason of absence, physical disability, or other cause, to administer properly the provisions of this chapter, the governor may designate a deputy appointed under this chapter, or the first deputy treasurer, to act for and in such commissioner's stead, and thereupon the officer thus designated shall have generally, for the time being, all the power and authority in this chapter conferred upon the commissioner.

**Sec. 199-3. Assistants; compensation; quarters; reports.** The commissioner shall employ from time to time such other officers, attorneys, clerks and employees, as are necessary for the administration of this chapter. They shall perform such duties as the commissioner shall assign to them and their compensation, and the compensation of the deputies herein provided for, shall be fixed by the commissioner with the approval of the governor, subject to the provisions of chapters 3 and 4. The commissioner and deputies and each of the employees shall take and subscribe and file the oath of office prescribed by law.

The commissioner, deputies or any person appointed or employed by the commissioner shall be paid, in addition to their salary or compensation when required to travel on official duties, the transportation cost, board, lodging and other traveling ex-

penses necessary and actually incurred by each of them in the performance of the duties required by this chapter or performed by the direction of the Commissioner.

The governor shall cause the commissioner to be furnished with such quarters, stationery, furniture, office equipment and other supplies as may be necessary for the efficient execution of the functions vested in him by this chapter. The commissioner shall report to the governor annually upon such date as the governor shall establish. The report shall contain an account of the work of the commissioner during the period covered and such data and information as may be deemed necessary or appropriate.

**Sec. 199-4. Exempt Securities.** Except as hereinafter otherwise provided, the provisions of this chapter shall not apply to any of the following securities:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any State or Territory, any political subdivision of a State or Territory, or any agency or corporate or other instrumentality of one or more of the foregoing, or any certificate of deposit for any of the foregoing;

(b) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(c) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution or trust company organized and supervised under the laws of any State or Territory;

(d) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association or any building and loan or similar association organized under the laws of any State or Territory and authorized to do business in the Territory;

(e) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any State or Territory and authorized to do business in the Territory.

(f) Any security issued or guaranteed by any federal credit union, or any credit union or similar association organized and supervised under the laws of the Territory;

(g) Any security issued or guaranteed by any common carrier, public utility or holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission; (2) a registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that Act; (3) regulated in respect of its rates and charges by a governmental authority of the United States or any State or Ter-

ritory; or (4) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States or any State or Territory;

(h) Any security listed or approved for listing upon notice of issuance on any exchange registered or exempted under the provisions of the Securities Exchange Act of 1934, as amended; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe for any of the foregoing;

(i) Any security issued by any issuer organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association;

(j) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal.

**Sec. 199-5. Exempt transactions.** Except as hereinafter expressly provided, the provisions of this chapter shall not apply to the sale of any security in any of the following transactions:

(a) Any isolated non-issuer transaction, whether effected through a dealer or not;

(b) Any non-issuer distribution of an outstanding security if the Manual of Hawaiian Securities or any other recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years (or during the existence of the issuer and any predecessors if less than three years) in the payment of principal, interest, or dividends on the security;

(c) Any non-issuer transaction effected by or through a registered dealer pursuant to an unsolicited order or offer to buy;

(d) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(e) Any transactions in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit;

(f) Any transaction by an executor, administrator, sheriff,

marshal, receiver, trustee in bankruptcy, guardian, or conservator ;

(g) Any transaction executed by a bona fide pledgee without any purpose of evading this chapter ;

(h) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a dealer, whether the purchaser is acting for itself or in some fiduciary capacity ;

(i) Any transaction pursuant to an offer directed by the offerer to not more than twenty-five persons (other than those designated in paragraph (h) ) in the Territory during any period of twelve consecutive months, whether or not the offerer or any of the offerees is then present in the Territory, if all buyers represent that they are purchasing for investment (rather than with a present view to resale) and the seller reasonably accepts their representations as true, and no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer ;

(j) Any offer or sale of a preorganization certificate or subscription if no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber, and the number of subscribers does not exceed twenty-five ;

(k) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, non-transferable warrants, or transferable warrants exercisable within ninety days of their issuance, if no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in the Territory ;

(l) Any offer (but not a sale) of a security for which registration statements have been filed under both this Act and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either Act ;

(m) Any offer or sale by or through a real estate broker or real estate salesman licensed under the laws of the Territory as such, of a security issued by a corporation organized under the laws of the Territory, the holder of which security is entitled solely by reason of his ownership thereof to occupy for dwelling purposes, or to a lease which entitles such holder to occupy for dwelling purposes a house, or an apartment in a building, owned or leased by such corporation.

**Sec. 199-6. Registration of securities.** No securities except of a class exempt under any of the provisions of section 199-4 or unless sold in any transaction exempt under any of the provisions of section 199-5 or unless a registration thereof shall be in effect on the effective date of this Act shall be sold within the Territory unless such securities shall have been registered by notification,

by qualification or by coordination as hereinafter defined. Registration of stock shall be deemed to include the registration of rights to subscribe to such stock if the notice under section 199-7 or the application under section 199-8 for registration of such stock or the registration statement under section 199-8.5 includes a statement that such rights are to be issued. A record of the registration of securities shall be kept in a register of securities to be kept in the office of the commissioner in which register of securities shall also be recorded any orders entered by the commissioner with respect to such securities. Such register and all information with respect to the securities registered therein shall be open to public inspection.

**Sec. 199-7. Registration by notification.**

(a) Securities entitled to registration by notification. The following classes of securities shall be entitled to registration by notification in the manner provided in this section:

(1) Securities issued by a corporation, partnership, association, company, syndicate or trust owning a property, business or industry which has been in continuous operation not less than three years and which has shown during a period of not less than two years or more than ten years next prior to the close of its last fiscal year preceding the offering of such securities, average annual net earnings, after deducting all prior charges not including the charges upon securities to be retired out of the proceeds of sale, as follows: (i) In the case of interest-bearing securities, not less than one and one-half times the annual interest charge thereon and upon all other outstanding interest-bearing obligation of equal rank; (ii) in the case of preferred stock, not less than one and one-half times the annual requirements on such preferred stock and on all other outstanding stock of equal rank; (iii) in the case of common stock not less than five per cent upon all outstanding common stock of equal rank, together with the amount of common stock then offered for sale reckoned upon the price at which such stock is then offered for sale or sold.

The ownership by a corporation, partnership, association, company, syndicate or trust of more than fifty per cent of the outstanding voting stock of a corporation shall be construed as the proportionate ownership of the property, business or industry of such corporation, and shall permit the inclusion of the earnings of such corporation applicable to the payment of dividends upon the stock so owned in the earnings of the corporation, partnership, association, company, syndicate or trust issuing the securities sought to be registered by notification.

(2) Bonds or notes secured by first mortgage upon real estate leased to a corporation for a term of years at a net rental sufficient to pay the interest and to retire the principal of all bonds or notes secured by such mortgage during the term of the lease, where the lease is irrevocable and is pledged under the mortgage securing such bonds or notes.

(3) Bonds or notes secured by first mortgage on real estate

in any State or Territory of the United States or in the District of Columbia or in the Dominion of Canada where such real estate consists of agricultural lands used and valuable for agricultural purposes (not including oil, gas or mining property) and where the aggregate face value of the bonds or notes, not including interest notes or coupons, secured on such property does not exceed seventy per cent of the then fair market value of such lands plus sixty per cent of the insured value of any improvements thereon.

(4) Bonds or notes secured by first mortgage on real estate in any State or Territory of the United States or in the District of Columbia or in the Dominion of Canada where such real estate consists of improved city, town or village property and where the aggregate face value of such bonds or notes, not including interest notes or coupons, secured on such property does not exceed seventy per cent of the then fair market value of such property, including any improvements appurtenant thereto, and when such property is used principally to produce through rental a net annual income, after deducting operating expenses and taxes, or has a fair rental value after deducting operating expenses and taxes, at least equal to the annual interest plus not less than three per cent of the principal of the mortgage indebtedness.

(5) Bonds or notes secured by a mortgage constituting a first lien on a leasehold or real estate in any State or Territory of the United States or in the District of Columbia where such real estate consists of improved city, town and village property and where the aggregate face value of such bonds or notes, not including interest notes or coupons secured by such first mortgage does not exceed seventy per cent of the then fair market value of such leasehold and when the property is so used as to produce through rental a net annual income after deducting operating expenses and taxes, or has a fair rental value after deducting operating expenses and taxes, at least equal to the annual interest plus not less than three per cent of the principal of the mortgage indebtedness; **provided**, all advertisements, circulars and letters advertising the sale of such bonds or notes, and all receipts of payments therefor, and such bonds and notes shall bear in bold type not less than eighteen points upon the face thereof a legend stating that such bonds or notes are secured by mortgage on a leasehold, and all other written or printed offerings shall contain a statement to the same effect.

(6) Bonds or notes secured by a first mortgage upon real estate in any State or Territory of the United States or in the District of Columbia: (i) Where the mortgage is a first mortgage upon city, town or village real estate, or leaseholds, upon which real estate or leaseholds a building or buildings is or are about in good faith forthwith to be erected according to the expressed terms of the mortgage; (ii) and where reasonable adequate provision has been made for financing the full completion of such building clear of any lien superior to such mortgage; (iii) and where the aggregate face value of the bonds or notes, not including interest notes or cou-

pons, secured by such first mortgage does not exceed seventy per cent of the fair market value of such mortgaged property, including the building or buildings to be erected thereon as aforesaid; (iv) and where such mortgaged property is to be used principally to produce through rental a net annual income, after deducting operating expenses and taxes, or will have a fair rental value, after deducting operating expenses and taxes, at least equal to the annual interest plus not less than three per cent of the principal of such mortgage indebtedness;

**Provided**, that all advertisements, circulars and letters advertising the sale of such bonds or notes and all receipts of payments therefor shall bear in bold type not less than eighteen points upon the face thereof a legend stating that the bonds or notes are construction bonds or notes and all other written or printed offerings of such bonds or notes shall bear a statement to the like effect:

And **provided further**, that where such bonds or notes are secured wholly or partly by first mortgage on leaseholds, the value of such leaseholds is required to meet the ratio of property value to face value obligations above in this subsection provided, and all advertisements, circulars and letters advertising the sale of such bonds or notes, and all receipts of payments therefor, and such bonds and notes shall bear in bold type not less than eighteen points upon the face thereof a legend stating that such bonds or notes are secured wholly or partly by mortgage on a leasehold as the case may be, and all other written or printed offerings of such bonds or notes shall contain a statement to the same effect.

(7) Bonds or notes secured by first lien on collateral pledged as security for such bonds or notes with a bank or trust company as trustee, which bank or trust company is incorporated under the laws of and subject to examination and supervision by the United States or by a State or Territory of the United States, which collateral shall consist of one or more of the following: (i) a principal amount of first mortgage bonds or notes conforming to the requirement of any one or more of subsections (2), (3), (4), (5) and (6) of this section; (ii) a principal amount of obligations secured as hereinafter in this subsection provided; (iii) a principal amount of obligations of the United States; (iv) cash; the aggregate to be not less than one hundred per cent of the aggregate principal amount of all bonds or notes secured thereby. The portion of such collateral referred to in clause (ii) shall consist of obligations secured by a first lien on a principal amount of first mortgage bonds or notes conforming to the requirements of any one or more of subsections (2), (3), (4), (5) and (6) of this section, or a principal amount of obligations of the United States or cash equal to not less than one hundred per cent of the aggregate principal amount of such obligation so secured thereby, and all such pledged securities including cash so securing such obligations shall have been deposited with a bank or trust company as trustee, which bank or trust company is incorporated under the laws of and subject to examination and supervision by the United States

or by a State or Territory of the United States.

(8) The commissioner shall have the power and authority to receive registration by notification of other securities which are substantially of the same quality and description as one or more of the specific classes above named, although not specifically heretofore described.

(b) Procedure for registration by notification. Securities entitled to registration by notification shall be registered by the filing by the issuer or by any registered dealer interested in the sale thereof, in the office of the commissioner, of a statement with respect to such securities containing the following:

(1) Name of issuer, location and, if incorporated, place of incorporation;

(2) A brief description of the securities, including the amount of the issue;

(3) Amount of securities to be offered in the Territory;

(4) A statement of the amount of the issuer's income, expenses, and fixed charges during the last three years, certified to by a public accountant;

(5) A balance sheet showing the amount and general character of its assets and liabilities as of the last fiscal year immediately preceding, certified to by a public accountant;

(6) A brief statement of the facts which show that the securities fall within one of the classes in this section defined;

(7) The price at which the securities are to be offered for sale to the public;

(8) A statement that the issuer has complied with all the laws of the United States relating to the sale of securities;

(9) Such further information as the commissioner may require. All of the statements, exhibits and documents of every kind required by the commissioner under this section, except properly certified public documents, shall be verified by the oath of the applicant or of the issuer in such manner and form as may be required by the commissioner.

In the case of securities falling within the class defined by subsections (1) or (2), of subsection (a), a copy of the circular to be used for the public offering shall be filed in the office of the commissioner with the statement or within two days thereafter or within such further time as the commissioner shall allow.

In the case of securities falling within the classes defined by subsections (3), (4), (5), (6) and (7), the circular to be used for the public offering shall be filed with the statement.

The filing of such statement in the office of the commissioner and the payment of the fee hereinafter provided shall constitute the registration of such security. Upon such registration, such securities may be sold in the Territory by any registered dealer giving notice in the manner hereinafter provided in section 199-11 (h) subject, however, to the further order of the commissioner as hereinafter provided.



At the time of filing the statement, as hereinbefore prescribed in this section, the applicant shall pay to the commissioner a fee of one-twentieth of one per cent of the aggregate par value of the securities to be sold in the Territory for which the applicant is seeking registration, but in no case shall such fee be more than one hundred dollars. In case of stock having no par value, the price at which such stock is to be offered to the public, shall be deemed to be the par value of such stock.

**Sec. 199-8. Registration by qualification; application to commissioner, etc.**

(a) All securities required by this chapter to be registered before being sold in the Territory and not entitled to registration by notification, or by coordination, shall be registered only by qualification in the manner provided by this section.

(b) The commissioner shall receive and act upon applications for registration of securities by qualification and may prescribe forms upon which he may require such applications to be submitted. Applications shall be in writing and shall be duly signed by the applicant and sworn to by any person having knowledge of the facts and shall be filed in the office of the commissioner and may be made either by the issuer of the securities for which registration is applied for, or by any registered dealer desiring to sell the same within the Territory. Application for registration of securities by qualification shall be made by the filing in the office of the commissioner of the following:

(1) An application for registration which shall include the following, together with such other information as the commissioner may prescribe:

(i) Name and address of issuer and address of issuer's principal office in the Territory, if any;

(ii) Title of securities to be registered and total amount of each class of such securities to be offered in the Territory and elsewhere;

(iii) Amount of each class of securities to be offered in the Territory, offering price per unit and in the aggregate and the amount of the registration fee;

(iv) If a registration statement as to the securities has been filed under the Securities Act of 1933, the effective date of registration statement, if effective, and a statement as to whether any stop order has been made with respect thereto pursuant to said Securities Act of 1933, or whether any notice of intent to issue a stop order has been given or to the best knowledge of the applicant is threatened;

(v) The States, Territories or other jurisdiction, if any, which have refused by order or otherwise to authorize the sale of the securities to the public or have revoked or suspended the right to sell the securities or in which any proceeding for the revocation or suspension of such right is pending, or in

which an application for qualification has been withdrawn.

(2) A copy of each of the following:

(i) The issuer's charter or articles of association or other instrument of organization, together with all amendments thereto, certified by the officer of the State of the issuer's incorporation or organization having custody thereof, if not already on file in the office of the commissioner or of the treasurer of the Territory;

(ii) The issuer's by-laws, together with all amendments thereto, certified by the secretary or any other duly authorized officer of the issuer;

(iii) The indenture, if any, and all supplements thereto, under which the securities are to be issued;

(iv) The basic underwriting agreement, if any, and any agreement or agreements among underwriters and dealers pertaining to the distribution of the securities within the Territory;

(v) An opinion or opinions of counsel as to the legality and validity of the securities and their issuance;

(vi) A specimen copy of each certificate to be registered.

Any of the foregoing documents may be submitted in preliminary form, clearly marked as such, in which case a definitive copy of each shall be filed promptly after execution, adoption or filing, as the case may be.

(3) A prospectus which shall have set forth on the outside front cover page, in capital letters in type as large as that used generally in the body of the prospectus, the statement that 'NEITHER THIS PROSPECTUS NOR THE SECURITIES DESCRIBED HEREIN HAVE BEEN APPROVED OR DISAPPROVED BY THE COMMISSIONER OF SECURITIES OF THE TERRITORY OF HAWAII, NOR HAS THE COMMISSIONER PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS', and shall include the following, together with such other information as the commissioner may prescribe:

(i) The name and address of the issuer, the name of the jurisdiction under the laws of which it was organized, and the date of its organization;

(ii) A statement in tabular form of the following information on a per-share or other unit basis: offering price to the public; underwriting discounts or commissions; and proceeds to the issuer or other persons;

(iii) A statement of the amount of securities offered, the aggregate offering price to the public, the aggregate underwriting discounts or commissions, an estimate of the amount of expenses of the issuer and the amount of expenses of the underwriters to be born by the issuer, and the aggregate proceeds to the issuer or securities holders for whose accounts the securities are offered;

(iv) If any of the securities are to be offered for the account of any person other than the issuer, the name and address of each such security holder, the total amount he owns, and the amount to be offered for his account;

(v) If the securities are not to be offered for cash, a statement of the basis on which the offering is to be made;

(vi) A brief description of the method by which the securities are to be offered and if the offering is to be made by or through underwriters, the name and address of each underwriter and the amount of the participation of each underwriter, with a statement of any material relationship between the issuer and such underwriter;

(vii) A reasonably itemized statement of the purposes for which the net cash proceeds to the issuer from the sale of the securities are to be used and the amount to be used for each such purpose, indicating in what order of priority the proceeds will be used for the respective purposes;

(viii) A description of any arrangements for the return of funds to subscribers if all of the securities to be offered are not sold, or if there are no such arrangements, a statement to that effect;

(ix) A brief description of the securities to be offered, including:

(A) In the case of shares the par or stated value, if any; the rate of dividend, if fixed, and whether cumulative or non-cumulative; the preference, if any; and if convertible, the conversion rate;

(B) In the case of debt securities, the rate of interest; the date of maturity or, if the issue matures serially, a brief indication of the serial maturities; if the issue is redeemable before maturity, a brief statement of the redemption date or dates and price or prices; if payment of principal or interest is contingent, an indication of such contingency; a brief indication of the priority of the issue; and if convertible, the conversion rate;

(C) In the case of any other kind of security, appropriate information of a comparable character.

(x) A brief description of the business or proposed business of the issuer, including:

(A) The nature of the issuer's present or proposed products or services, the principal market therefor, and the length of time the issuer has been in commercial production;

(B) The location and general character of the plants or other physical properties held or proposed to be acquired by the issuer and the nature of the title under which such properties are held or proposed to be held;

(C) If the issuer intends to exploit or develop any new invention or process, a statement of how such invention or process is to be applied commercially and whether or not it is

covered by any patent, issued or pending, identifying by date any serial number any such patent or patent application.

(xi) The names and residence addresses of all directors and officers of the issuer and of any person or persons controlling the issuer and, if the issuer was organized within the last three years, the names and addresses of all promoters of the issuer;

(xii) A description of all direct and indirect interests, by security holdings or otherwise, of each director and officer of the issuer and, if the issuer was organized within the last three years, of each promoter of the issuer:

(A) In the issuer or its affiliates;

(B) In any material transactions within the past two years or in any material proposed transactions to which the issuer or any of its predecessors or affiliates was or is to be a party, stating the cost to such persons of any property or services for which payment by or for the account of the issuer has been or is to be made.

(xiii) If the issuer was organized within the last three years, a statement of the percentage of outstanding securities of the issuer which will be held by directors, officers and promoters as a group, and the percentage thereof which will be held by the public if all of the securities to be offered are sold, and the respective amounts of cash (including cash expended for property transferred to the issuer) paid therefor by such group and by the public;

(xiv) A brief description of all options or warrants presently outstanding or proposed to be granted to purchase securities of the issuer, including the names of the holders thereof, the cost thereof to such holders, the terms and conditions on which they may be exercised, and the price at which the securities may be acquired pursuant thereto;

(xv) A balance sheet of the issuer at the close of the issuer's last fiscal year preceding the date of filing of the prospectus and a profit and loss statement and analysis of surplus for the fiscal year ended at the date of said balance sheet, all certified by a public accountant, together with a balance sheet of the issuer as of a date within ninety days prior to the date of filing of the prospectus and a statement of profit and loss for the period from the close of the last preceding fiscal year to the date of said balance sheet, both verified by a duly authorized officer of the issuer or, if the issuer has been in existence for less than one year, a balance sheet of the issuer as of a date within ninety days prior to said date of filing and a statement of profit and loss for the period from the date of the issuer's organization to the date of said balance sheet, both certified by a public accountant;

(xvi) No prospectus filed pursuant hereto shall set forth in any manner any estimate or projection of future income,

earnings or profits of the issuer or any subsidiary, parent, or affiliate of the issuer, unless clearly identified as an estimate and unless the basis of estimation is clearly set forth.

(4) If the securities for which application for registration is being made have been or are to be registered under the Securities Act of 1933, there may be filed in lieu of the prospectus prescribed by paragraph (3) of subsection (b) of this section, the definitive prospectus of the issuer filed under the Securities Act of 1933, if the same shall be dated within 120 days of the application for registration under this section.

(c) With respect to securities required to be registered by qualification under the provisions of this section, the commissioner may, by order duly recorded, fix the maximum amount of commission or other form of remuneration to be paid in cash or otherwise, directly or indirectly, for or in connection with the sale or offering for sale of such securities in the Territory.

(d) At the time of filing the application for registration as prescribed in this section, the applicant shall pay to the commissioner, a fee of one-tenth of one per cent of the aggregate offering price of the securities to be sold in the Territory for which the applicant is seeking registration, but in no case shall such fee be less than \$20 nor more than \$200.

(e) If, upon examination of any application and the documents required to be filed therewith, the commissioner shall find that the sale of the security referred to therein would not be fraudulent and would not work or tend to work a fraud upon the purchaser and that the enterprise or business of the issuer is not based upon unsound business principles, he shall record the registration of such security in the register of securities and thereupon such security so registered may be sold by the issuer or any registered dealer who has notified the commissioner of his intention so to do in the manner hereinafter provided in section 199-11, subject, however, to the provisions of this chapter and to the further order of the commissioner as hereinafter provided.

(f) Registration under this section shall be effective for a period of one year and may be renewed for additional periods of one year by filing, by a date not later than 15 days prior to expiration of registration, a prospectus meeting the requirements of paragraph (3) or (4) of subsection (b) of this section, and containing information as of a date not more than 90 days prior to the date of filing, together with the payment of a renewal fee of \$20.

**Sec. 199-8.5. Registration by Coordination.** Any security for which a registration statement has been filed under the Securities Act of 1933 in connection with the same offering may be registered by coordination.

(a) A registration statement under this section shall contain the following information and be accompanied by the following documents:

(1) Three copies of the prospectus filed under the Securities Act of 1933 together with all amendments thereto;

(2) If the commissioner requires a copy of the articles of association and by-laws (or their substantial equivalents) currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;

(3) If the commissioner requests, any other information, or copies of any other documents, filed under the Securities Act of 1933; and

(4) An undertaking to forward all amendments to the federal registration statement, other than an amendment which merely delays the effective date, promptly and in any event not later than the first business day after the day they are forwarded to or filed with the Securities and Exchange Commission, whichever first occurs.

(b) A registration statement under this section automatically becomes effective at the moment the federal registration statement becomes effective if all the following conditions are satisfied: (1) no order denying registration is in effect and no proceeding is pending under section 199-10; (2) the registration statement has been on file with the commissioner for at least ten days; and (3) a statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two full business days or such shorter period as the commissioner permits and the offering is made within those limitations. The registrant shall promptly notify the commissioner by telephone or telegram of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file a post-effective amendment containing the information and documents in the price amendment. 'Price amendment' means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price. Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the commissioner may enter an order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with this subsection, if he promptly notifies the registrant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) of the issuance of the order. If the registrant proves compliance with the requirements of this subsection as to notice and post-effective amendment, such order is void as of the time of its entry. The commissioner may waive either or both of the conditions specified in clauses (2) and (3). If the federal registration statement becomes effective before all these condi-

tions are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the commissioner of the date when the federal registration statement is expected to become effective, the commissioner shall promptly advise the registrant by telephone or telegram, at the registrant's expense, whether all the conditions are satisfied and whether he then contemplates the entry of any order under section 199-10; but this advise by the commissioner does not preclude the institution of such a proceeding at any time.

(c) A registration statement relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the Investment Company Act of 1940, may be amended after its effective date so as to increase the securities specified as proposed to be offered. Such an amendment becomes effective when the commissioner so orders. Every person filing such an amendment shall pay a filing fee of \$50.00.

(d) Unless suspended or revoked by the commissioner pursuant to section 199-10, a registration statement effective under this section shall continue in effect so long as the registration statement filed under the Securities Act of 1933 in connection with the same offering continues in effect.

(e) Every person filing a registration statement under this section shall, at the time of filing the same, pay a filing fee of \$50.00.

**Sec. 199-9. Commissioner as agent to accept service; consent to. Actions in what circuit. Notice to issuer.** Upon any application for registration by notification under section 199-7 made by an issuer and upon any application for registration by qualification under section 199-8 or for registration by coordination under section 199-8.5 whether made by an issuer or registered dealer, where the issuer is not domiciled in the Territory, there shall be filed with such application the irrevocable written consent of the issuer that in suits, proceedings and actions growing out of the violation of any provision of this chapter, the service on the commissioner of any notice, process, or pleading therein, authorized by the laws of the Territory, shall be as valid and binding as if due service had been made on the issuer. Any such action shall be brought either in the circuit of the plaintiff's residence or in the circuit in which the commissioner has his office. Such written consent shall be authenticated by the seal of the issuer, if it has a seal, and by the acknowledged signature of a member of the co-partnership or company, or by the acknowledged signature of any officer of the incorporated or unincorporated association, if it be an incorporated or unincorporated association, duly authorized by resolution of the board of directors, trustees or managers of the corporation or association, and shall in such case be accompanied by a duly certified copy of the resolution of the board of directors,

trustees or managers of the corporation or association, authorizing the officers to execute the same. In case any process or pleadings mentioned in this chapter are served upon the commissioner it shall be by duplicate copies, one of which shall be filed in the office of the commissioner and another immediately forwarded by the commissioner by registered mail to the principal office of the issuer against which the process or pleadings are directed.

**Sec. 199-10. Revocation of registration of securities; suspension during investigation; hearing.**

(a) The commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration if he finds that the order is in the public interest and that:

(1) the registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment under section 199-8 (f) as of its effective date is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) any provision of this Act or any rule, order, or condition lawfully imposed under this Act has been wilfully violated, in connection with the offering, by (A) the person filing the registration statement, (B) the issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer, or (C) any underwriter;

(3) the security registered or sought to be registered is the subject of an administrative stop order or similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other Federal or State Act applicable to the offering; but (A) the commissioner may not institute a proceeding against an effective registration statement under this clause more than one year from the date of the order or injunction relied on, and (B) he may not enter an order under this clause on the basis of an order or injunction entered under any other State Act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section;

(4) the issuer's enterprise or method of business includes or would include activities which are illegal where performed;

(5) the offering has worked or tended to work a fraud upon purchasers or would so operate;

(6) the offering has been or would be made with unreasonable amounts of options, underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participation;



(7) when a security is sought to be registered by notification, it is not eligible for such registration;

(8) when a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by section 199-8.5 (a) (4); or

(9) the applicant or registrant has failed to pay the proper filing fee; but the commissioner may enter only a denial order under this clause and he shall vacate any such order when the deficiency has been corrected.

The commissioner may not enter a stop order against an effective registration statement on the basis of a fact or transaction known to him when the registration statement became effective.

(b) The commissioner may by order summarily postpone or suspend the effectiveness of the registration statement pending final determination of any proceeding under this section. Upon the entry of the order, the commissioner shall promptly notify each person specified in subsection (c) that it has been entered and of the reasons therefor and that within fifteen days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to each person specified in subsection (c), may modify or vacate the order or extend it until final determination.

(c) No stop order may be entered under any part of this section except the first sentence of subsection (b) without (1) appropriate prior notice to the applicant or registrant, the issuer, and the person on whose behalf the securities are to be or have been offered, (2) opportunity for hearing, and (3) written findings of fact and conclusions of law.

(d) The commissioner may vacate or modify a stop order if he finds that the conditions which prompted its entry have changed or that it is otherwise in the public interest to do so.

**Sec. 199-11. Registration of dealers and salesmen.** It is unlawful for any person to transact business in this Territory as a dealer or salesman unless registered under this chapter.

(a) Eligibility for registration as a dealer. To be eligible for registration as a dealer an applicant must be of good repute and have had (or if the applicant is a partnership or corporation have at least one partner, officer or employee who has) at least one year of experience as a full-time security salesman or experience as a security salesman on a part-time basis found by the commissioner to be substantially equivalent thereto, **provided** that the foregoing experience requirement shall not apply to issuers of securities applying for registration as dealers for the sole purpose of issuing and selling securities issued by them.

(b) Application for registration as a dealer. An application

for registration as a dealer in writing shall be filed in the office of the commissioner in such form as the commissioner may prescribe, duly verified by oath, and shall state the principal office of the applicant wherever situated, and the location of the principal office and branch offices in the Territory, if any, the name and style of doing business, the names, residence and business as principals, co-partners, officers and directors, specifying as to each his capacity and title, the general plan and character of business, the length of time the dealer has been engaged in business and information as to the time, place and character of experience as a securities salesman. The commissioner may also require such additional information as to the applicant's previous history, record and association as he may deem necessary to establish the good repute in business of the applicant. There shall be filed with such application an irrevocable written consent to the service of process upon the commissioner in actions against such dealer in manner and form as hereinabove provided in section 199-9.

(c) Approval, bond. If the commissioner shall find that the applicant for registration as a dealer is eligible for such registration, then he shall register such applicant as a dealer upon payment of the fee hereinafter provided and upon such dealer's filing a bond in the sum of five thousand dollars (\$5,000) running to the Territory conditioned upon the faithful compliance with the provisions of this chapter by the dealer and by all salesmen registered by him while acting for him. Such bond shall be executed as surety by a surety company authorized to do business in the Territory, **provided**, however, that no bond shall be required of or from any such applicant if the applicant at the time of making his application is a member of any recognized stock or bond exchange which has been in existence for a period of five years prior to April 29, 1931; **provided further**, that no bond shall be required if the aggregate par value of the securities to be sold is less than five thousand dollars or in the case of no par value stock, if the price at which such stock is to be offered to the public is less than five thousand dollars if the person selling or offering such securities for sale to the public shall notify the commissioner in writing of his intention to make such sale and shall after such sale file with the commissioner a statement of the kind and amount of stock sold and the price received therefor, but where the aggregate par value of such securities or the price at which said stock is to be offered to the public is less than five thousand dollars no more than one such sale or offering shall be allowed within a period of one year; **provided further**, that in lieu of the above bond any dealer may deposit and keep deposited with the commissioner cash in the amount of five thousand dollars or securities to be approved by the commissioner having a market value at all times of not less than five thousand dollars which cash or securities shall be held in trust for the fulfilling of the same terms and conditions as in the case of a bond required by this section, which cash or securities may be withdrawn at any time subject to the deposit in lieu there-

of of cash or other securities of equal value, or upon the filing of a bond as provided in this section, and which cash or securities will be so held in trust for a period of two years beyond the revocation or termination of the registration of the dealer depositing the same.

(d) Eligibility for registration as a salesman. To be eligible for registration under this chapter a salesman shall be of good repute, shall have complied with the provisions of this section, shall be designated as a salesman by a registered dealer, and, if the commissioner shall so require, shall pass an oral or written examination, or both, prescribed by the commissioner, to test his knowledge of the securities business. No person shall be designated as a salesman by, or shall act as a salesman for, more than one registered dealer.

(e) Registration of salesmen. An information statement, containing such information as the commissioner shall prescribe, duly verified by oath by the applicant, shall be filed in the office of the commissioner, together with an appointment of the applicant as a salesman by a registered dealer. If the commissioner shall find a salesman designated by any registered dealer to be eligible for registration as a salesman, he shall register such person as a salesman upon the payment of the fee hereinafter provided.

(f) Recording; duration; renewal; fee. The names and addresses of all persons found eligible for registration as dealers or salesmen and all orders with respect thereto shall be recorded in a register of dealers and salesmen kept in the office of the commissioner which shall be open to public inspection. Except as hereinafter provided, every registration under this section shall expire on December 31 in each year, but new registrations for the succeeding year shall be issued upon written application and upon payment of the fee as hereinafter provided without filing of further statements or furnishing any further information unless specifically required by the commissioner. Applications for renewals must be made not less than thirty nor more than sixty days before the first day of the ensuing year, otherwise they shall be treated as original applications. The registration of any salesman may be revoked or terminated prior to its expiration by written notice filed with the commissioner by the registered dealer or registered salesman concerned, and such revocation shall take effect as of the date and time of filing of such notice. Upon revocation or termination of the registration of any salesman, such salesman's certificate of registration shall be surrendered to the commissioner for cancellation. The fee for registration and for each annual renewal shall be twenty-five dollars in the case of dealers and five dollars in the case of salesmen; **provided**, however, that no such fee for registration shall be charged or collected from any dealer or salesman where such dealer or salesman is required to pay and does pay to the Territory or any municipal subdivision thereof any license fee for following such vocation or occupation.

(g) Changes. Changes in registration occasioned by changes

in the personnel of a partnership or in the principals, co-partners, officers or directors of any dealer may be made from time to time by written application setting forth the facts with respect to such change.

(h) Notice of intent to offer. Every registered dealer who intends to offer any security of any issue registered or to be registered shall notify the commissioner in writing of his intention so to do. The notice shall contain the name of the dealer, shall state the name of the security to be offered for sale and whenever a dealer shall have prepared such notice and shall have forwarded the same by registered mail, postage prepaid, and properly addressed to the commissioner, such dealer, as to the contents of such notice and the filing thereof shall be deemed to have complied with the requirements of this paragraph.

(i) Issuers as dealers. Any issuer of a security required to be registered under the provisions of this chapter selling such securities, except in exempt transactions as defined in section 199-5, shall file with the commissioner a bond or deposit securities or cash as required for dealers, subject to the same conditions of dealers, and may appoint salesmen in the manner heretofore prescribed.

**Sec. 199-12. Revocation of dealers' and salesmen's registration; suspension during investigation, etc.** Registration under section 199-11 may be refused or any registration granted may be revoked by the commissioner if after a reasonable notice and a hearing the commissioner determines that such applicant or registrant so registered: (a) Has violated any provision of this chapter or any regulation made hereunder; or (b) has made a material false statement in the application for registration; or (c) has been guilty of a fraudulent act in connection with any sale of securities, or has been or is engaged or is about to engage in making fictitious or pretended sales or purchases of any of such securities or has been or is engaged or is about to engage in any practice or sale of securities which is fraudulent or in violation of law; or (d) has demonstrated his unworthiness to transact the business of dealer or salesman.

In cases of charges against a salesman notice thereof shall also be given the dealer employing such salesman. Pending the hearing the commissioner shall have the power to order the suspension of such dealer's or salesman's registration; provided such order shall state the cause for such suspension.

Until the entry of a final order the suspension of such dealer's registration, though binding upon the persons notified thereof, shall be deemed confidential, and shall not be published, unless it shall appear that the order of suspension has been violated after notice.

In the event the commissioner determines to refuse or revoke a registration as hereinabove provided, he shall enter a final order herein with his findings on the register of dealers and salesmen; and suspension or revocation of the registration of a dealer shall also suspend or revoke the registration of all his salesmen.

It shall be sufficient cause for refusal or cancellation of registration in case of a partnership or corporation or any unincorporated association, if any member of a partnership or any officer or director of the corporation or association has been guilty of any act or omission which would be cause for refusing or revoking the registration of an individual dealer or salesman.

**Sec. 199-13. Pleading, burden of proof, of exemption.** It shall not be necessary to negate any of the exemptions in this chapter provided in any complaint, information, indictment or any other writ or proceedings laid or brought under this chapter and the burden of establishing the right to any such exemption shall be upon the party claiming the benefit of such exemption and any person claiming the right to register any securities by notification under section 199-7 shall also have the burden of establishing the right so to register such securities.

**Sec. 199-14. Escrow of certain securities.**

(a) As a condition to registration of any securities under this chapter, the commissioner may, in his discretion, by order, require that any securities issued for, or which are intended to be issued for, any option, lease, assignment, patent right, copyright, trademark, process, formula, good will, going concern value, organization or promotion fees or expenses, or other intangible assets, or issued or intended to be issued in payment for property shall be delivered in escrow to the commissioner or other depository satisfactory to the commissioner under an escrow agreement that the owners of such securities shall not be entitled to sell or transfer such securities without the consent of the commissioner, that the owners thereof shall not be entitled to withdraw such securities from escrow until all other securities holders who have paid for their securities in cash shall have been paid dividends or interest aggregating not less than six per cent, shown to the satisfaction of the commissioner to have been actually earned and paid, and that in case of dissolution or insolvency during the time such securities are held in escrow, the owners thereof shall not participate in any distribution of assets unless and until after the owners of all other securities shall have been paid in full.

(b) As a condition to registration of any securities under this chapter, the commissioner may, in his discretion, require that all treasury stock of the issuer or other securities issued and thereafter acquired by the issuer, be delivered in escrow to the commissioner or other depository satisfactory to the commissioner, subject to such terms and conditions as to release from escrow as the commissioner deems necessary in the circumstances.

**Sec. 199-15. Injunctions.** Whenever it shall appear to the commissioner, either upon complaint or otherwise, that in the issuance, sale, promotion, negotiation, advertisement, or distribution of any securities within the Territory, including any security exempted under the provisions of section 199-4, and including any transaction exempted under the provisions of section 199-5, any person, as defined in this chapter:

(a) Shall have employed or employs, or is about to employ any device, scheme or artifice to defraud or for obtaining money or property by means of any false pretence, representation or promise;

(b) Or that any such person shall have made, makes or attempts to make in the Territory fictitious or pretended purchases or sales of securities;

(c) Or shall have engaged in or engages in or is about to engage in any practice or transaction or course of business relating to the purchase or sale of securities (1) which is in violation of law, (2) or which is fraudulent, (3) or which has operated or which would operate as a fraud upon the purchaser; any one or all of which devices, schemes, artifices, fictitious or pretended purchases or sales of securities, practices, transactions and courses of business are declared to be and are hereinafter referred to as fraudulent practices;

(d) Or that any person is acting as dealer or salesman within the Territory without being duly registered as such dealer or salesman as provided in this chapter; the commissioner may investigate, and whenever he shall believe from evidence satisfactory to him; (1) that any such person has engaged in, is engaged or is about to engage in any of the practices or transactions hereinbefore referred to as and declared to be fraudulent practices; (2) or is selling or offering for sale any securities in violation of this chapter or is acting as a dealer or salesman without being duly registered as provided in this chapter.

The commissioner may, in addition to any other remedies, bring suit in the name and on behalf of the Territory against such person and any other person or persons concerned in or in any way participating in or about to participate in such fraudulent practices or acting in violation of this chapter, to enjoin such person and such other person or persons from continuing such fraudulent practices or engaging therein or doing any act or acts in furtherance thereof or in violation of this chapter. In any such court proceedings the commissioner may apply for and on due showing be entitled to have issued the court's subpoena requiring forthwith the appearance of any defendant and his employees, salesmen or agents and the production of documents, books and records as may appear necessary for the hearing of such petition to testify and give evidence concerning the acts or conduct or things complained of in such application for injunction. In such suit the equity courts shall have jurisdiction of the subject-matter and a judgment may be entered awarding such injunction as may be proper.

#### **Sec. 199-16. Remedies.**

(a) Sales voidable when and by whom. Every sale made in violation of any of the provisions of this chapter shall be voidable at the election of the purchaser; and the person making such sale and every director, officer or agent of or for such seller, if such director, officer or agent shall have personally participated or aided in any way in making such sale, shall be jointly and severally

liable to such purchaser in an action at law in any court of competent jurisdiction upon tender of the securities sold or of the contract made for the full amount paid by such purchaser, with interest, together with all taxable court costs (and reasonable attorney's fees); **provided**, that no action shall be brought for the recovery of the purchase price after two years from the date of such sale and **provided further**, that no purchaser otherwise entitled shall claim or have the benefit of this section who shall have refused or failed within thirty days from the date thereof to accept an offer in writing of the seller to take back the security in question and to refund the full amount paid by such purchaser, together with interest on such amount for the period from the date of payment by such purchaser down to the date of repayment, such interest to be computed: (1) In case such securities consist of interest-bearing obligations, at the same rate as provided in such obligations; and (2) in case such securities consist of other than interest-bearing obligations, at the rate of six per cent per annum; less, in every case, the amount of any income from such securities that may have been received by such purchaser.

(b) Action on bond. Any person having a right of action against a dealer or salesman under this section shall have a right of action under the bond provided in section 199-11.

(c) Registration in good faith. A registration by notification made in good faith and after the commissioner, on application, shall have given tentative consent to such registration, shall not, as to sales made prior to revocation of such registration, result in the liabilities prescribed in this section, although the securities may not be entitled to such registration.

**Sec. 199-17. Penalty.** Whoever violates any provision of this chapter shall be punished by a fine of not more than five thousand dollars or by imprisonment for not more than three years, or by both fine and imprisonment.

**Sec. 199-18. Statutory or common law remedies.** Nothing in this chapter shall limit any statutory or common law right of any person to bring any action in any court for any act involved in the sale of securities, or the right of the Territory to punish any person for any violation of any law.

**Sec. 199-19. Appeals to circuit court, first circuit; time; bond; costs; trial de novo; decree; further appeal.** An appeal may be taken by any person interested from any final order of the commissioner to the circuit court of the first judicial circuit by serving upon the commissioner within twenty days after notice of the entry of such order a written notice of such appeal stating the grounds upon which a reversal of such final order is sought; a demand in writing for a certified transcript of the record and of all papers on file in his office affecting or relating to such order and executing a bond in the penal sum of one thousand dollars to the Territory, with sufficient surety, to be approved by the commissioner or the court, conditioned upon the faithful prosecution of such appeal to final judgment, and the payment of all such costs

as shall be adjudged against the appellant. Thereupon the commissioner shall within ten days make, certify and file with the clerk of said court such a transcript, or in lieu thereof the original papers if the court shall so order; and the appellant shall within five days thereafter file the same and a copy of the notice of appeal with the clerk of the court, which notice of appeal shall stand as appellant's complaint and thereupon the cause shall be entered on the trial calendar of the court for trial de novo and may be given precedence by the court over other matters pending in the court. The court shall receive and consider evidence, whether oral or documentary, concerning the order of the commissioner from whom the appeal is taken. If the order of the commissioner shall be reversed the court shall by its mandate specifically direct the commissioner as to his further action in the matter, including the making and entering of any order or orders in connection therewith, and the conditions, limitations or restrictions to be therein contained; **provided** that the commissioner shall not thereby be barred from thereafter revoking or altering such order for any proper cause which may thereafter accrue or be discovered. If the order shall be affirmed, the appellant shall not be barred after thirty days from filing a new application provided such application is not otherwise barred or limited. Such appeal shall not in anywise suspend the operation of the order appealed from during the pendency of such appeal unless upon proper order of the court. An appeal may be taken from the decree of the circuit court on any such appeal on the same terms and conditions as an appeal is taken in equity suits.

**Sec. 199-19.5. Delivery of prospectus to purchaser.** No sale or contract of sale of any security required to be registered by qualification shall be concluded unless prior to the conclusion thereof a copy of a prospectus meeting the requirements of paragraph (3) or (4) of subsection (b) of section 199-8 or of subsection (a) of section 199-8.5 shall be delivered to the purchaser thereof, **provided**, however, that this section shall not apply to any sale or contract of sale of any security a registration by qualification of which is in effect and is not subject to any order of suspension or revocation and with respect to which no proceeding looking to the entry of any order of suspension or revocation is pending on the effective date of this section, if such sale or contract of sale shall be concluded within one year after the effective date of such registration or one year after the effective date of this section, whichever is the later.

**Sec. 199-20. Fraudulent and other prohibited practices.** (a) It is unlawful for any person, in connection with the offer, sale or purchase (whether in a transaction described in section 199-5 or otherwise) of any security (whether or not of a class described in section 199-4), in the Territory, directly or indirectly:

- (1) to employ any device, scheme or artifice to defraud;
- (2) to make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements



made, in the light of the circumstances under which they are made, not misleading;

(3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

(4) to issue, circulate or publish any prospectus, circular, advertisement, printed matter, document, pamphlet, leaflet or other literature (in this chapter sometimes referred to collectively as 'advertising matter') which shall contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein made, in the light of the circumstances under which they are made, not misleading;

(5) to issue, circulate or publish any advertising matter or make any written representation, unless the name of the person issuing, circulating, publishing or making the same and the fact that such person is issuing, circulating, publishing or making the same shall be clearly indicated thereon;

(6) to make any statement or representation, or issue, circulate or publish any advertising matter containing any statement, to the effect that the security has been in any way approved or endorsed by the commissioner; or

(7) to issue, circulate or publish any advertising matter unless a copy thereof shall have been previously filed with the office of the commissioner.

(b) It is unlawful for any person who receives any consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise,

(1) to employ any device, scheme, or artifice to defraud the other person, or

(2) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person.

(c) It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract unless it provides in writing

(1) that the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or any portion of the funds of the client;

(2) that no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; and

(3) that the investment adviser, if a partnership, shall notify the other party to the contract of any change in the membership of the partnership within a reasonable time after the change.

Clause (1) does not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date. 'Assignment', as used in clause (2), includes any direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the

assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business."

SECTION 2. This Act shall take effect upon its approval.

(Approved June 7, 1957.) **S.B. 419, Act 314.**

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### ACT 315

An Act to Amend Chapter 174 of the Revised Laws of Hawaii 1955 Relating to Foreign Corporations by Amending Sections 174-1, 174-3, 174-8 and 174-9; by Repealing Section 174-2; and by Adding Two New Sections Thereto.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 174-1 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 174-1. Declarations; local agents; bonds.** Every corporation or incorporated company other than an eleemosynary corporation formed or organized under the laws of any other territory, possession or state of the United States or of any foreign state or country which undertakes to do or carry on business in the Territory, or take, hold, demise, sell or convey real estate situate therein shall file in the office of the treasurer of the Territory:

(a) A declaration sworn to on oath by two authorized officers of the corporation stating:

- (1) The name of the corporation;
- (2) The state wherein it was incorporated;
- (3) The location and address of its principal office;
- (4) The location and address of its branch office or offices in the Territory;
- (5) The names and addresses of its officers and directors;
- (6) The amount of its paid up capital stock;
- (7) The total value of the property owned and used by it in its business;
- (8) The nature and total value of the property to be acquired by it for use in the Territory;
- (9) The total dollar amount of business transacted by it during its preceding fiscal year;
- (10) The nature and actual method of the business to be transacted within the Territory;
- (11) The name and business address of the person residing

within the Territory upon whom legal notice and process from the courts of the Territory, or notices from officials of the Territory, may be served.

(b) A copy of the articles of association, charter, or act of incorporation of the corporation as amended to the date of the declaration, certified to by the proper officer of the state where the corporation was organized, which certificate shall also state that the corporation is in good standing if such be the fact.

(c) A copy of the by-laws of the corporation, as amended to the date of the declaration, certified to by the proper officer of the corporation.

(d) A good and sufficient bond or bonds with one or more sureties to be approved by the treasurer, and running to the treasurer and his successors in office, in a sum or sums to be fixed by the treasurer in his sound discretion, but not more than ten per cent of the capital stock of the corporation or \$50,000, whichever is less, with condition that the surety or sureties on such bond or bonds shall be answerable in the amount of the bond or bonds for all judgments, decrees, or orders given, made, or rendered against the principal on the bond or bonds by any of the courts of the Territory for the payment of money; **provided**, that the treasurer may require such bond to be in the sum of not less than \$1,000, or may waive the requirements of such bond if in his judgment any such corporation owns or holds property within the Territory in value sufficient to equal the amount of any bond or bonds which would otherwise be required or is an established corporation which has not defaulted on any obligation due from it for a period of at least ten years prior to the date of declaration. The treasurer may from time to time review and redetermine the requirement of this subsection as if a declaration were being filed at the time of such review and redetermination, and increase or reduce or waive the bond or bonds required, as appropriate, or accept other or different bonds under such conditions as he may require and determine. The surety or sureties on any such bond may withdraw from the same upon giving to the treasurer notice not less than sixty days prior to the date on which the then existing annual license of such foreign corporation is to expire; **provided**, that such surety or sureties shall remain liable on the bond for all judgments, decrees or orders given, made or rendered against the principal pursuant to the provisions of this section, based upon any obligation or liability incurred prior to the date of expiration of such annual license."

SECTION 2. Section 174-3 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"**Sec. 174-3. Same; by eleemosynary corporation.** Every eleemosynary corporation or incorporated company formed or organized under the laws of any other territory, possession or state of the United States or of any foreign state or country which undertakes to do or carry on any solely charitable work in the Territory or to take, hold, demise, sell or convey real estate situate

therein shall file in the office of the treasurer of the Territory :

(a) A declaration sworn to on oath by two authorized officers of the corporation stating :

- (1) The name of the corporation ;
- (2) The state wherein it was incorporated ;
- (3) The location and address of its principal office ;
- (4) The location and address of its branch office or offices in the Territory ;

(5) The names and addresses of its officers and directors, if any ;

(6) The nature and actual method of the charitable work to be carried on in the Territory ;

(7) The name and business address of the person residing within the Territory upon whom legal notice and process from the courts of the Territory, or notices from officials of the Territory, may be served.

(b) A copy of the articles of association, charter, or act of incorporation of the corporation as amended to the date of the declaration, certified to by the proper officer of the state wherein the corporation was organized, which certificate shall also state that the corporation is in good standing if such be the fact.

(c) A copy of the bylaws of the corporation as amended to the date of the declaration certified to by the proper officer of the corporation."

SECTION 3. Section 174-8 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows :

**"Sec. 174-8. Powers and liabilities ; fees.** Every foreign corporation or incorporated company, other than eleemosynary, on complying with the provisions of section 174-1 and paying to the treasurer a fee of \$50 shall, subject to the provisions of sections 174-9 and 174-13, have the same powers and privileges and be subject to the same disabilities as are by law conferred on corporations constituted under the laws of the Territory, and shall, for the purposes for which it is constituted, have full power to hold, take, and convey by way of sale, mortgage, or otherwise, real, personal and mixed estate in the Territory ; **provided**, that the purposes for which the corporation or company is constituted are not repugnant to or in conflict with any law of the Territory ; **provided further**, that nothing herein contained shall be construed to give any corporation or company any of the special powers conferred by law upon railroad or banking corporations constituted under the laws of the Territory."

SECTION 4. Section 174-9 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows :

**"Sec. 174-9. Annual license mandatory, exceptions ; fees.** No foreign corporation except foreign insurance companies and foreign eleemosynary corporations solely carrying on charitable work in the Territory which does not invest and use all its capital in the Territory shall do or carry on business in the Territory unless it shall first have obtained from the treasurer an annual

license to do so. For the license every corporation shall pay into the treasury of the Territory for the use of the Territory annually the sum of \$100 and the treasurer shall not issue a license to any corporation until the license fee shall have been paid.

The treasurer is authorized to settle and have collected an account against any company violating the provisions of this section for the amount of the license fee together with a penalty of fifty per cent for failure to pay the same; **provided**, that no license shall be necessary for any corporation while solely employed by the government of the United States."

**SECTION 5.** **Section 174-2** of the Revised Laws of Hawaii 1955 is hereby repealed in its entirety. The treasurer is hereby authorized to cancel the registration of every foreign corporation that has heretofore registered to do business in the Territory in interstate or foreign commerce pursuant to the provisions of section 174-2.

**SECTION 6.** Chapter 174 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto two new sections to be appropriately numbered by the Secretary of Hawaii and to read as follows:

"**Sec. [174-7.5].** Without excluding other activities which may not constitute doing or carrying on business in the Territory, a corporation or incorporated company formed or organized under the laws of any other territory, possession or state of the United States, or of any foreign state or country shall not be considered to be doing or carrying on business in the Territory for the purposes of this chapter by reason of carrying on in the Territory any one or more of the following activities:

(a) Maintaining or defending any action or suit or any administrative or arbitration proceedings or effecting the settlement thereof or the settlement of claims or disputes.

(b) Holding meetings of its directors or shareholders or carrying on other activities concerning its internal affairs.

(c) Maintaining bank accounts.

(d) Maintaining offices or agencies for the transfer, exchange and registration of its securities, or appointing and maintaining agents, trustees or depositories with relation to its securities.

(e) Effecting sales through independent contractors.

(f) Soliciting or procuring orders whether by mail or through employees or agents or otherwise where such orders require acceptance without the Territory before becoming binding contracts.

(g) Creating evidences of debt, mortgages or liens on real or personal property.

(h) Securing or collecting debts or enforcing any rights in property securing the same.

(i) Transacting any business in interstate commerce.

(j) Conducting an isolated transaction completed within a period of thirty days and not in the course of a number of repeated transactions of like nature."

**"Sec. [174-8.5].** Every foreign eleemosynary corporation on complying with the provisions of section 174-1 and paying to the treasurer a fee of ten dollars shall, subject to the provisions of section 174-13, have the same powers and privileges and be subject to the same disabilities as are by law conferred on eleemosynary corporations constituted under the laws of the Territory, and shall, for the purposes for which it is constituted, have full power to hold, take and convey by way of sale, mortgage or otherwise real, personal and mixed estate in the Territory; **provided,** that the purposes for which the corporation or company is constituted are not repugnant to or in conflict with any law of the Territory."

SECTION 7. This Act shall take effect upon its approval.

(Approved June 7, 1957.) **S.B. 609, Act 315.**

### ACT 316

An Act Relating to Fees Charged by Departments, Commissions, Boards, Agencies, and Establishments of the Territorial Government, and Amending Chapter 46 and Sections 57-17, 60-2, 60-10.1, 64-5, 66-2, 66-8, 72-1, 72-2, 72-4, 71-6, 71-8, 99-18, 219-5, 219-6, 342-105, 343-11 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 46 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto two new sections, to be numbered sections 46-15.1 and 46-15.2 respectively, which shall read as follows:

**"Sec. 46-15.1. License to practice certain occupations.** It shall be unlawful for any person to practice any of the following listed occupations without a license so to do; any person wishing to obtain a license to engage in any of the listed occupations shall make application to the board of health, in accordance with such rules or regulations as shall be prescribed by the board under section 46-15, and any such application shall be accompanied by an examination fee for such license in accordance with the following schedule:

(a) Chiropodist	\$25
(b) Physiotherapist	10
(c) Midwife	10
(d) Tattoo artist	50
(e) Laboratory director	25
(f) Laboratory technician	10
(g) Sanitarian	10
(h) Itinerant Vendor of medicines or drugs or devices	25

**"Sec. 46-15.2. Annual registration; fees, failure to register.** Every person holding a license to practice any occupation listed in section 46-15.1 shall re-register with the board of health, in accordance with the rules and regulations of the board, on or

before January 31 of each year and shall pay a re-registration fee as provided for in the following schedule:

(a) Chiropodist	\$5
(b) Physiotherapist	2
(c) Midwife	2
(d) Tattoo artist	5
(e) Laboratory director	5
(f) Laboratory technician	2
(g) Sanitarian	2
(h) Itinerant vendor of medicines or drugs or devices	5

The failure, neglect, or refusal of any person holding such license to re-register or to pay the re-registration fee, after thirty days of delinquency, shall constitute a forfeiture of his license; **provided**, that the license shall be restored upon written application therefor together with a payment of all delinquent fees and a sum equal to the fee for the original license. In the event such delinquency continues over a period of more than one year, such person shall submit to and successfully pass an examination to be conducted by the board before such license shall be restored."

**SECTION 2.** **Section 57-17**, subparagraph (a) of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figure "\$1" and inserting in lieu thereof the figures "\$1.50".

**SECTION 3.** **Section 60-2** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figures "\$25" therefrom and inserting in lieu thereof the figures "\$50".

**SECTION 4.** **Section 60-10.1** of the Revised Laws of Hawaii 1955 is hereby amended by deleting therefrom the figure "\$3" wherever the same appears therein, and inserting in lieu thereof the figure "\$5".

**SECTION 5.** **Section 64-5** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figures "\$25" appearing in line 3 thereof, and inserting in lieu thereof the figures "\$50"; and by deleting the figure "\$2" appearing in line 6 thereof and inserting in lieu thereof the figure "\$5".

**SECTION 6.** **Section 66-2** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figures "\$10" therefrom and inserting in lieu thereof the figures "\$50".

**SECTION 7.** **Section 66-8** of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 66-8. License to practice; annual registration.** License to practice naturopathy shall be issued by the board of health in such form as the board determines, to those who qualify according to the provisions of this chapter. Naturopathy physicians licensed under this chapter shall observe and be subject to all territorial regulations relative to reporting births and deaths and all matters pertaining to the public health with equal rights and obligations as physicians, surgeons and practitioners of other schools of medicine. Every person holding a license to practice in the Territory shall re-register with the territorial board of examiners in naturopathy on or before January 31 of each year and shall pay a

re-registration fee of \$5. The failure to so re-register and pay the re-registration fee shall constitute a forfeiture of license, **provided**, that the license shall be reinstated upon written application therefor together with payment of all delinquent fees and the sum of \$50."

SECTION 8. **Section 72-1** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figures "\$10" therefrom and inserting in lieu thereof the figures "\$25".

SECTION 9. **Section 72-2** of the Revised Laws of Hawaii 1955 is hereby amended by adding at the end thereof the following sentence:

"The rules and regulations of the board shall prescribe an original registration fee of \$50 for the engaging by any person in the business of an undertaker, and an annual renewal fee of \$10."

SECTION 10. **Section 72-4** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figure "\$1" appearing in line 4 thereof, and inserting in lieu thereof the figure "\$5".

SECTION 11. **Section 71-6** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figures "\$15" therefrom and inserting in lieu thereof the figures "\$25".

SECTION 12. **Section 71-8** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figure "\$2" from paragraph (b) thereof, and inserting in lieu thereof the figure "\$5"; and by deleting the figure "\$5" from paragraph (c) thereof, and inserting in lieu thereof the figures "\$10".

SECTION 13. **Section 99-18** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figures "\$10" appearing in lines 20 and 23 thereof, and inserting in lieu thereof the figures "\$15".

SECTION 14. **Section 219-5 (a) (1)** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figures "\$15" therefrom and inserting in lieu thereof the figures "\$20"; and by deleting the figures ".50" therefrom and inserting in lieu thereof the figure "\$1".

SECTION 15. **Section 219-5 (a) (2)** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figures "\$10" therefrom and inserting in lieu thereof the figures "\$15"; and by deleting the figures ".50" therefrom and inserting in lieu thereof the figure "\$1".

SECTION 16. **Section 219-5 (a) (3)** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figure "\$3" therefrom and inserting in lieu thereof the figure "\$5"; and by deleting the figures ".50" therefrom and inserting in lieu thereof the figure "\$1".

SECTION 17. **Section 219-5 (b)** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figure "\$5" therefrom and inserting in lieu thereof the figures "\$10"; and by deleting the figures ".50" therefrom and inserting in lieu thereof the figure "\$1".

SECTION 18. **Section 219-5 (c) (1)** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figure "\$2" therefrom and inserting in lieu thereof the figure "\$5"; and by deleting the figures "\$.50" therefrom and inserting in lieu thereof the figure "\$1".

SECTION 19. **Section 219-5 (c) (2)** of the Revised Laws of Hawaii



1955 is hereby amended by deleting the figures "\$10" therefrom and inserting in lieu thereof the figures "\$15"; and by deleting the figures ".50" therefrom and inserting in lieu thereof the figure "\$1".

SECTION 20. Section 219-5 (d) of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figure "\$5" therefrom and inserting in lieu thereof the figures "\$10".

SECTION 21. Section 219-5 (e) (1) of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figures ".25" therefrom and inserting in lieu thereof the figure "\$1".

SECTION 22. Section 219-5 (e) (2) of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figures ".25" therefrom and inserting in lieu thereof the figure "\$1".

SECTION 23. Section 219-6 (a) of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figures "\$25" therefrom and inserting in lieu thereof the figures "\$50".

SECTION 24. Section 342-105 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figure "\$5" appearing in paragraph 20 thereof and inserting in lieu thereof the figures "\$10"; and by deleting the figure "\$2" appearing in paragraph 21 thereof and inserting in lieu thereof the figure "\$5"; and by deleting the figures "\$10", ".25" and ".10" appearing in paragraph 5 thereof and inserting in lieu thereof the figures "\$25", ".50" and ".25", respectively; and by deleting the figures "\$1.50" appearing in paragraph 6 thereof and inserting in lieu thereof the figure "\$3"; and by deleting the figures "\$1.50" appearing in paragraph 7 thereof and inserting in lieu thereof the figure "\$3".

SECTION 25. Section 343-11 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the figures "\$1.50" appearing in the 5th paragraph thereof and inserting in lieu thereof the figure "\$2".

SECTION 26. This Act shall take effect on July 1, 1957.

(Approved June 7, 1957.) S.B. 801, Act 316.

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### ACT 317

An Act to Amend Chapter 109 of the Revised Laws of Hawaii 1955, Relating to the Bureau of Sight Conservation and Work with the Blind.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 109-1 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

"Sec. 109-1. **Bureau created; appointment of director and subordinates; general powers.** There shall be a bureau, to be known as the 'bureau of sight conservation and work with the blind', hereinafter referred to as the 'bureau', the head of which shall be known as the 'director, bureau of sight conservation and work with the blind'. Such director shall be appointed and be removable by the governor pursuant to chapter 3, shall be a member of the

civil service system, and shall receive such compensation as shall be determined pursuant to chapter 4. The bureau shall administer work with and for the blind, including the registry of the blind, vocational guidance, training and placement in employment, and other services, including the conduct of activities for sight conservation and prevention of blindness, but not including public assistance under chapters 107 and 108 or medical care (except examinations under section 108-37)."

SECTION 2. Chapter 109 of the Revised Laws of Hawaii 1955 is hereby amended by adding thereto two new sections to be numbered 109-1.5 and 109-1.6 respectively and to read as follows:

**"Sec. 109-1.5. The territorial board of sight conservation and work with the blind created; members; duties.** There is hereby created a commission to be known as the 'territorial board of sight conservation and work with the blind', hereinafter referred to as the 'commission' which shall establish the policy or policies to be followed and implemented by the bureau of sight conservation and work with the blind. The commission shall consist of the commissioners of public instruction (except for the superintendent of public instruction). The commission shall have full authority and responsibility for the administration of the bureau of sight conservation and work with the blind and all matters pertaining thereto. The commission shall prescribe the duties of the director who shall be the administrative officer of the bureau of sight conservation and work with the blind.

**Sec. 109-1.6. Director signs drafts, etc., makes reports.** Except as otherwise provided, the director shall sign all drafts for the payment of moneys, all commissions and appointments, all deeds, official acts or other documents of the bureau. He shall, at such time as may be prescribed by the commissioners, present to the commissioners full annual reports of the principal transactions within his bureau during the last completed year, which reports, together with such recommendations as the commissioners may think proper, shall be presented to the governor and the legislature."

SECTION 3. The title of part I of chapter 109 is amended to read as follows:

**"PART I. TERRITORIAL BOARD AND BUREAU OF SIGHT CONSERVATION AND WORK WITH THE BLIND."**

SECTION 4. This Act shall take effect January 1, 1958.

(Approved June 7, 1957.) **S.B. 841, Act 317.**

**ACT 318**

An Act Relating to Insane Defendants and Amending Sections 258-38 and 258-39 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 258-38 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 258-38. Insanity at time of offense.** In cases where it is given in evidence upon the trial of any person charged with any offense, that the person was insane at the time of the commission of the offense, and the person is acquitted, the jury shall be required to find specially whether such person was insane at the time of the commission of the offense, and to declare whether such person was acquitted by them on account of the insanity. If they find that the person was insane at the time of the commission of the offense, the court before whom the trial is had shall commit such person to the territorial hospital, there to be detained as an insane person, subject to discharge by a circuit court or judge upon proof of the termination of the insanity, **provided**, that upon presentment of due proof that such person has regained his sanity at the time of acquittal, the judge may release such person without such committal."

SECTION 2. Section 258-39 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 258-39. Commitment of persons acquitted of crime.** Whenever any person indicted for any crime is acquitted after having submitted evidence of his insanity or mental derangement at the time of the commission of the offense, the court before whom such trial has been had shall forthwith commit such person to the territorial hospital, there to be detained as an insane person until discharged by a circuit court or judge upon proof of termination of his insanity; **provided**, that upon presentment of due proof that such person has regained his sanity at the time of acquittal, the judge may release such person without such committal."

SECTION 3. This Act shall take effect upon its approval.

(Approved June 7, 1957.) **S.B. 129, Act 318.**

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**ACT 319**

An Act Relating to Noxious Weed Control, Including Gorse Control, Adding a New Chapter to Title 3 of the Revised Laws of Hawaii 1955, and Making Appropriations Therefor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Title 3 of the Revised Laws of Hawaii 1955 is hereby amended by adding a new chapter to be designated "Noxious Weed Control", with sections to be numbered and to read as follows:

"Chapter 27A. Noxious Weed Control.

**Sec. 27A-1. Findings and declaration of policy.** The legislature of the Territory finds and declares that the farms and grazing lands of the Territory are its basic assets; that portions of these lands are infested with some one or more plant species which are considered as noxious weeds; that such infestations of noxious weeds are likely to increase and spread to new localities and islands in the Territory if allowed to go uncontrolled; that certain species of noxious weeds present on certain islands are not present, or comprise relatively small infestations, on other islands; that the uncontrolled spread of infestations of noxious weeds has an injurious and harmful effect upon the agricultural, horticultural and livestock industries of the Territory; that the control and eradication of noxious weeds is in the public interest; and that it is the policy of the Territory to control and eradicate noxious weeds when discovered on islands other than those on which they comprise relatively small infestations; **provided**, that such control and eradication be first determined to be practicable and feasible in accordance with the provisions of this chapter.

**Sec. 27A-2. Definitions.** For the purpose of this chapter, unless otherwise required by context:

(a) "Board" means the board of commissioners of agriculture and forestry.

(b) "Director" means the director of the divisions of entomology and marketing.

(c) "Noxious weed" means any plant species which is injurious, harmful or deleterious or which may be likely to become so to the agricultural, horticultural and livestock industries of the Territory, as determined and so designated by the board from time to time, by rules and regulations.

(d) "Landowner" means the possessor of a fee simple absolute title in land or real estate and shall include the Territory as well as its political subdivisions in their capacities as owners of public lands.

(e) "Person" means any individual, firm, corporation, association or partnership.

**Sec. 27A-3. Rules and regulations.** The board shall have all powers necessary to carry out and to effectuate the purposes of this chapter, by rules and regulations including but not limited to the following:

(a) To designate which plant species are to be considered noxious weeds for the purposes of this chapter;

(b) To designate certain islands as being reasonably free of specified species of noxious weeds;

(c) To prevent the transportation of noxious weeds or parts thereof to those islands declared reasonably free from such noxious weeds;

(d) To make all necessary rules and regulations reasonably necessary to control and eradicate noxious weeds when infestations appear on islands designated as being reasonably free of such specified noxious weeds;

**Provided**, that all such rules and regulations shall be in compliance with all other laws concerning the making of rules and regulations which shall have the force and effect of law.

**Sec. 27A-4. Duties of the board; noxious weed control and eradication.** (a) It shall be the duty of the board through its divisions of entomology and marketing to maintain a constant vigilance for incipient infestations of specific noxious weeds on islands declared reasonably free from such weeds, and to use such procedures and methods to control and eradicate such infestations of noxious weeds as are determined to be feasible and practicable.

(b) When the board determines that an infestation of a certain noxious weed exists on an island declared reasonably free from such weed, the board through its divisions of entomology and marketing shall immediately conduct such investigations and surveys as are necessary to determine the feasibility and practicability of control and eradication of such infestation. The methods of control and eradication adopted by the board for any noxious weed infestation shall cause as little damage to crops and property as possible.

(c) Upon determining that control and eradication of such an infestation is practicable and feasible, the board shall immediately serve notice, either oral or written, on both the landowner of the property and the occupant of the property on which such infestations exist. Written notice sent to the landowner's address last known to the board by registered mail, postage prepaid, return receipt requested, shall be deemed sufficient notice. The notice shall set forth all pertinent information with respect to such infestation and notify the landowner and the land occupant of the procedure and methods of control.

**Sec. 27A-5. Appropriation for noxious weed control fund of board.** There is hereby appropriated from the general revenues of the Territory, not otherwise appropriated, the sum of \$22,000 to be known as the noxious weed control fund for carrying out the purposes of this chapter, upon vouchers approved by the president of the board of commissioners of agriculture and forestry, or by such representative as the president may authorize in writing. The board shall hereafter include a biennial estimate for the noxious weed control fund when submitting biennial budgetary estimates."

**SECTION 2.** The sum of \$18,000 is hereby appropriated from the general revenues of the Territory not otherwise appropriated to the Department of Institutions for the eradication of gorse plants on the island of Maui.

**SECTION 3.** This Act shall take effect on July 1, 1957.

(Approved June 7, 1957.) **H.B. 1084, Act 319.**

**ACT 320**

An Act Relating to Budgetary Control and Abolition of Special Funds.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The purpose of this Act is to place all special funds under legislative and executive budgetary control in the same manner as the general fund, with the exception of those funds subject to applicable federal laws or regulations and/or payments on principal and interest on revenue bonds. As to the Hawaii housing authority, this purpose should not be put into effect until July 1, 1959, because of the critical shortage existing in the Territory at the time of the passage of this Act.

SECTION 2. All special funds maintained by all departments, commissions, boards, agencies, and establishments of the Territory shall be governed by the provisions of chapter 35, Revised Laws of Hawaii 1955, **provided**, however, that departments and establishments shall not be authorized to make expenditures out of any special fund in excess of the monies available in the special fund.

SECTION 3. For the biennium 1957-1959, in the absence of legislative appropriations for the special funds, departments and establishments shall be authorized to expend so much as is deemed necessary to carry out the purposes of each special fund, as approved by the governor, or the budget director if so delegated by the governor, **provided**, however, that such expenditures shall not exceed the monies available in the special fund. Controls on expenditure of funds involving quarterly allotments, transfers of funds, new positions and equipment purchases shall apply to the special fund expenditures in the same manner as general fund expenditures.

SECTION 4. The bureau of the budget shall conduct a study of all special funds, revolving funds, continuous appropriations, carry-over appropriations, and funds not covered into the treasury to determine the necessity of continuing such funds, and shall report such findings to the Thirtieth Legislature. The bureau shall prepare and submit to the Thirtieth Legislature proposed legislation for abolishing all such funds and converting all such funds to general appropriation financing except those funds it considers to be of public interest to finance by the present or other means.

SECTION 5. At any time during the biennium, notwithstanding other provisions of law to the contrary, departments may, with the approval of the governor or the budget director if so delegated by the governor, transfer from the special funds to the general revenues of the Territory all monies determined to be in excess of biennial requirements for the special funds.

SECTION 6. All territorial funds shall be deposited in the territorial treasury.

SECTION 7. All laws or parts of laws inconsistent with this Act are amended to conform to this Act.

SECTION 8. If any portion of this Act or the application thereof to any person or circumstances shall be unconstitutional or invalid, the

remainder of this Act or the application of such portion to other persons or circumstances shall not be affected.

SECTION 9. There is hereby appropriated out of the general revenue of the Territory, not otherwise appropriated, the sum of \$20,000 to the bureau of the budget to carry out the provisions of this Act.

SECTION 10. This Act shall take effect on July 1, 1957, but as to the Hawaii housing authority it shall be applicable only as of July 1, 1959.

(Approved June 8, 1957.) **S.B. 704, Act 320.**

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### ACT 321

An Act Amending Chapter 159 of the Revised Laws of Hawaii 1955, Relating to Intoxicating Liquor.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 159 of the Revised Laws of Hawaii 1955 is hereby amended in the following particulars:

a. By amending the twelfth paragraph of **section 159-1** to read as follows:

“‘Liquor’ or ‘intoxicating liquor’ includes alcohol, brandy, whiskey, rum, gin, okolehao, sake, beer, ale, porter and wine; and shall also include, in addition to the foregoing, any spirituous, vinous, malt or fermented liquor, liquids and compounds, whether medicated, proprietary, patented, or not, in whatever form and of whatever constituency and by whatever name called, containing one-half of one per cent or more of alcohol by volume, which are fit for use or may be used or readily converted for use for beverage purposes.”

b. By amending **section 159-31** as follows:

1. By amending class 10 of the said table of fees to read as follows:

“10. Cabaret—\$560 or one per cent of gross sales, whichever is larger.”

2. By adding after the last paragraph thereof a new paragraph to read as follows:

“Notwithstanding the provisions of this section prescribing the minimum fees for class 5 and class 10 licenses, or the provisions of any other law to the contrary, the liquor commission of each county other than the city and county of Honolulu shall have the power, with the approval of the governor, to increase the minimum fees for such classes on July 1 of each year, upon a finding and determination by the commission that the estimated receipts of the commission for the current fiscal year based upon the provisions of the preceding paragraphs, together with its other revenues, during such period will be insufficient to meet all of the normal operational costs and expenses of such commission; **provided**, that the minimum fees for class 5 and class 10 licenses shall be increased

on a uniform percentage basis, and only to the extent necessary to yield sufficient income to satisfy all of the normal operational costs and expenses of the commission, but under no circumstance shall the minimum fees for such licenses be increased in excess of the minimum fees for such licenses payable in the city and county of Honolulu. Minimum fees increased by the commission shall take effect as of July 1 of the current fiscal year, and shall remain in force up to and including June 30, following."

c. By amending **section 159-39** as follows:

1. By deleting the period after the section heading "Place of business," substituting a semicolon therefor, and adding the words, "exception; solicitors' and representatives' permits; fees."

2. By deleting therefrom, wherever they appear, the words "agent" or "agents" and substituting therefor the words "solicitor" and "solicitors", respectively.

3. By deleting the second sentence in the third paragraph thereof.

4. By adding the following four paragraphs after the fourth and last paragraph thereof:

"The fees for such permits shall be for each license year (commencing July 1 and ending on the succeeding June 30) or fraction thereof, shall be renewable each July 1, and shall be in the following amounts:

"A solicitor or representative of such manufacturer of or wholesale dealer in alcohol who solicits or takes orders, for direct shipment, for alcohol in permitted quantities in any county in which the manufacturer or wholesale dealer is not licensed for the sale of such alcohol ..... \$ 5.00;

A solicitor or representative of such manufacturer of or wholesale dealer in beer and/or wine who solicits or takes orders, for direct shipment, for beer and/or wine in permitted quantities in any county in which the manufacturer or wholesale dealer is not licensed for the sale of such liquor ..... \$ 75.00;

A solicitor or representative of such manufacturer of other liquor or of other liquors in addition to beer and wine, or a solicitor or representative of such wholesale general dealer, who solicits or takes orders, for direct shipment, for such liquor in permitted quantities in any county in which the manufacturer or wholesale dealer is not licensed for the sale of such liquor ..... \$125.00."

d. By amending **section 159-41** by inserting therein a new paragraph after the third and before the fourth paragraph thereof, which shall read as follows:

"If the licensee is a corporation, a change in ownership of any outstanding capital stock shall not be deemed a transfer of a license; **provided**, that in the case of a change in ownership of twenty-five per cent or more of such stock or in the case of a change in ownership of any number of shares of such stock which



results in the transferee thereof becoming the owner of twenty-five per cent or more of the outstanding capital stock, the corporate licensee shall, within five days from the date of such transfer, notify the commission in writing. The commission may in its discretion suspend or revoke the license of such corporation upon its failure or refusal to so notify the commission of such transfer. The commission may thereupon, if it finds such transferee an unfit or improper person to hold a license in his own right pursuant to section 159-45 of this chapter, in its discretion revoke such license or suspend such license until such time as a re-transfer or new transfer of such capital stock is effected to a fit or proper person pursuant to said section 159-45, but in no case may such suspension period exceed 30 days, unless extended by the commission for good cause shown, and the commission may order the licensee to effect such re-transfer or new transfer and notify the commission in writing. If at the end of such suspension period or extension thereof, a re-transfer or new transfer has not been effected the commission shall revoke the license."

e. By amending paragraph (b) of **section 159-45** to read as follows:

"(b) To a corporation the officers and directors of which, or any of them, would be disqualified under paragraph (a) of this section from obtaining such license individually, or a stockholder of which, owning or controlling twenty-five per cent or more of the outstanding capital stock would be disqualified under said paragraph (a) from obtaining such license individually."

f. By amending **section 159-52** in the following manner:

1. By amending paragraph (a) by deleting the semicolon after the clause, "if a corporation or joint stock company, its full name and the names of its officers and directors," substituting a comma therefor and inserting thereafter the following:

"and the names of all stockholders owning twenty-five per cent or more of the outstanding capital stock;"

g. By amending **section 159-58** by deleting from the first sentence thereof the word "ten" and substituting therefor the word "fifteen."

h. By amending **section 159-90** in the following manner:

1. By amending the second paragraph to read as follows:

"In every case where it is proposed to revoke or suspend the exercise of any license or assess and collect a penalty for any cause other than a conviction at law of the licensee as above specified, written notice shall be given the licensee, specifying the cause or causes for which it is proposed to take such action and fixing the date of hearing, such notice to be given at least five days before such hearing: except that any special license shall be subject to summary revocation for any violation of or evidence of intent to violate the proper exercise thereof, without hearing before the commission; **provided**, that the exercise of a license shall in no case be suspended or revoked for any violation (other than a conviction at law of the licensee as above specified) based upon the personal observation of any inspector, unless written notice of the

violation charged to have occurred shall have been given to the licensee within ten days after the alleged violation occurred, and such licensee shall have been given a hearing upon such charge not more than ten nor less than five days after the giving of such notice of alleged violation."

2. By amending the third paragraph by deleting the proviso clause therefrom and substituting therefor the following:

"the testimony taken at the hearing shall be under oath and recorded stenographically, or by machine, but the parties shall not be bound by the strict rules of evidence; certified copies of any transcript and of any other record made of or at such hearing shall be furnished to the licensee upon his request and at his expense."

3. By adding thereto a new paragraph to read as follows:

"Whenever the service of any order or notice shall be required by this section such service shall be made in the following manner: by serving a certified copy of such notice or order upon the holder of the license wherever he may be found in the circuit wherein he is licensed or, if he cannot be found after diligent search, by leaving a certified copy thereof at his dwelling house or usual place of abode with some person of suitable age and discretion residing therein; and if the holder of the license cannot be found after diligent search, and service cannot be made as aforesaid, then service may be made by posting a certified copy of the notice or order in a conspicuous place on the licensed premises and depositing another certified copy thereof in the registered mail of the United States Post Office, postage prepaid, addressed to the holder of the license at his last known residence address; **provided**, that in the case of a licensed corporation or unincorporated association service may be made as aforesaid upon any officer thereof."

1. By inserting therein two new sections which shall be numbered 159-102.01 and 159-102.02, respectively, and shall read as follows:

**"Sec. 159-102.01. Inspectors, employees, counsel for.** Whenever any inspector or other employee of the commission shall be prosecuted for any crime or sued in any civil cause for acts done in the performance of his duty as such inspector or employee, he shall be represented and defended (a) in any such criminal proceeding by an attorney to be employed and paid by the commission and (b) in any such civil cause by the city and county attorney or county attorney, as the case may be, of the county in which the inspector or employee is serving.

**Sec. 159-102.02. Determination whether acts were in scope of duty.** The determination of whether the acts of an inspector or other employee of the commission, when he is being prosecuted or sued, were done in the performance of his duty, so as to entitle him to be represented by the county attorney or city and county attorney of the county or city and county of the commission in question, or by an attorney employed and paid by the commission shall be made by the liquor commission of such county after consultation with such county or city and county attorney who may

make a recommendation to the commission in respect thereof if he so desires, and such determination shall be conclusive for such purpose only."

SECTION 2. This Act shall take effect on July 1, 1957.

(Approved June 12, 1957.) **S.B. 883, Act 321.**

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### **ACT 322**

An Act Relating to the Fuel Tax, Amending Chapter 123 of the Revised Laws of Hawaii 1955.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 123-1** of chapter 123, Revised Laws of Hawaii 1955, is amended by adding thereto a new paragraph to follow the definition of "person" and to read as follows:

"'Retail dealer' means and includes a person who purchases liquid fuel from a licensed distributor, and sells the liquid fuel at retail. Only sales of liquid fuel for consumption or use by the purchaser, and not for resale, are sales at retail."

SECTION 2. Chapter 123, Revised Laws of Hawaii 1955, is further amended by inserting a new section 123-2.5, to read as follows:

**"Sec. 123-2.5. Retail dealers, permits; certificates.** (a) The certificate of a retail dealer as to the amount of his retail sales during the month, referred to in section 123-7, is of no validity unless at the time of making the certificate the retail dealer holds a permit from the tax commissioner, which is then in effect. In order to obtain a permit, a retail dealer shall make an application to the tax commissioner therefor, in such form as the commissioner prescribes and containing such information as the commissioner requires.

(b) Any person who makes a false or fraudulent application or certificate or false statement in an application or certificate provided for by this chapter, with intent to defraud the Territory or to obtain, for a licensed distributor, an unauthorized credit, or who in any manner intentionally deceives or attempts to deceive the commissioner or his authorized agent in relation to an application or certificate provided for by this chapter, shall be fined not more than \$5,000 or imprisoned not more than one year or both.

(c) No permit shall be issued to a retail dealer unless the commissioner is satisfied that (1) the retail dealer, as to all of the liquid fuel purchased by him from licensed distributors, is engaged exclusively in selling the same at retail, and is not using the liquid fuel for any other purpose; or (2) the retail dealer maintains on the premises a pump or pumps drawing on tanks into which fuel is delivered by licensed distributors and from which no liquid fuel is drawn by the retailer for any purpose other than the sale thereof at retail, and the retail dealer further maintains records showing the quantity of liquid fuel on hand in those tanks at the beginning

and end of each month and the deliveries into those tanks made by licensed distributors during the month; or (3) the retail dealer maintains records by which retail sales of liquid fuel purchased from licensed distributors are segregated from all other sales or uses of liquid fuel, and further showing the quantity of liquid fuel on hand at the beginning and end of each month and the purchases of liquid fuel from licensed distributors during the month.

(d) Permits to retail dealers shall be issued on an annual basis and shall expire at the end of each calendar year. A fee of \$5 shall be charged for each permit or renewal thereof. Permits shall be numbered and each certificate made by a retail dealer holding a permit shall bear the same identifying number as the permit which he holds.

(e) The tax commissioner is authorized to revoke a permit upon the grounds hereinafter stated, after notice to the retail dealer holding the permit informing him of the grounds of the proposed revocation and of the time and place at which a hearing will be held thereon. If the commissioner finds, after such hearing, that there is good cause therefor he may revoke the permit. The permit may be revoked upon any of the following grounds: (1) A false or fraudulent application or false statement in an application; (2) the giving of a false fraudulent certificate or a false statement in a certificate; (3) failure to maintain the practices or records required by clause (1), (2) or (3) of subsection (c), whichever is applicable as shown by the retail dealer's application for the permit; (4) incomplete or inaccurate records when and if required to be kept.

(f) Each retail dealer who holds a permit issued by the tax commissioner, which remains in effect, is thereby authorized to make a certificate showing the amount of retail sales, made by him during the month, of liquid fuel purchased from a licensed distributor, and further is authorized to furnish such certificate to the licensed distributor from whom he purchased the liquid fuel, for his use as provided in section 123-7."

SECTION 3. Section 123-7 of chapter 123, Revised Laws of Hawaii 1955, is amended by changing the period at the end of the first sentence of the last paragraph to a semicolon and adding the following:

**"provided further,** that a licensed distributor shall be entitled, in computing the tax he is required to pay, to deduct from the gallons of fuel reported for the month for each county or for the island of Lanai or the island of Molokai, as the case may be, one gallon for each ninety-nine gallons of like liquid fuel sold by retail dealers in that county or on that island during the month, as shown by certificates furnished by the retail dealers to the distributor and attached to the distributor's report."

SECTION 4. This Act shall take effect on July 1, 1957. However, the certificates referred to in section 123-7 of the Revised Laws of Hawaii 1955, as amended by this Act, may be furnished only as to retail sales of liquid fuel made on or after July 1, 1957.

(Approved June 12, 1957.) S.B. 608, Act 322.

## J. R. 1

Joint Resolution Requesting the Congress to Enact Legislation Providing for the Admission of Hawaii to Statehood.

WHEREAS, Hawaii was annexed to the United States by agreement between the government of the people of Hawaii, which was then an independent Republic, and the government of the United States; and

WHEREAS, under said agreement Hawaii was to become, and did become, an integral part of the United States; and

WHEREAS, in fulfillment of the terms of the Newlands Resolution of annexation the Congress enacted the Hawaiian Organic Act, which constituted Hawaii an incorporated organized territory; and

WHEREAS, every incorporated organized territory in the history of the United States, except Alaska and Hawaii, has invariably been granted statehood upon the successful completion of a reasonable period of pupilage; and

WHEREAS, inherent in the public acts under which Hawaii became an integral part of the United States and was created an incorporated organized territory, was the implied promise of ultimate statehood on an equal footing with the original states, upon the fulfillment of the traditional requirements for admission as a state established and followed in the admission of every previously incorporated organized territory; and

WHEREAS, this implied promise has been repeatedly acknowledged by the executive and judicial branches of the government of the United States, and by the Congress of the United States, especially in the reports of Committees of the Congress duly adopted by the Congress relating to Statehood for Hawaii; and

WHEREAS, the people of Hawaii have demonstrated their political maturity, their ability to govern themselves in accordance with the principles of representative government laid down by the United States Constitution, and their ability to maintain themselves as a sound economic unit; and have fully and unequivocally met every historic qualification for statehood; and

WHEREAS, Hawaii is fully qualified for statehood, as has been found repeatedly by congressional committees holding hearings thereon; and

WHEREAS, Hawaii has adopted a constitution formed by a convention of duly elected delegates and ratified by the people, which constitution is republican in form, in conformity with the Constitution of the United States and the principles of the Declaration of Independence, and in every other respect meets the requirements for admission of the state; and

WHEREAS, the people of Hawaii are ready to elect state officers, and senators and representatives in Congress, as shown by the adoption of suitable legislation therefor to take effect immediately upon authorization of such elections by the Congress; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation providing for the admission of the state of Hawaii into the Union.

SECTION 2. This legislature does hereby reaffirm the desire and will of the people of Hawaii that statehood be granted them, and does hereby reassert that fulfillment of the rights of the people of Hawaii calls for enactment of statehood legislation without further delay.

SECTION 3. Duly certified copies of this Joint Resolution shall be forwarded to the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Chairman of the Committee on Interior and Insular Affairs of the said Senate, the Chairman of the Committee on Interior and Insular Affairs of said House of Representatives, the Delegate to Congress from Hawaii, and the Secretary of the Interior.

SECTION 4. This Joint Resolution shall take effect upon its approval.

(Approved March 21, 1957.) H.J.R. 15, J.R. 1.

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### J. R. 2

Joint Resolution Requesting the Secretary of Agriculture of the United States to Provide for Higher Prices for Raw Sugar.

WHEREAS, the sugar industry of the Territory of Hawaii is one of the major industries of the Territory and is a major contributing factor to the economy of the Territory; and

WHEREAS, there are many small independent growers of sugar cane in the Territory whose sole livelihood depends upon the prices received for raw sugar processed from their sugar cane; and

WHEREAS, the consumer price index has increased substantially while the yearly average price of raw sugar in the New York market has remained at approximately the same level since the year 1947, such yearly average prices being: 1947, \$124.33; 1948, \$111.37; 1949, \$116.12; 1950, \$118.65; 1951, \$121.21; 1952, \$125.27; 1953, \$125.76; 1954, \$121.80; 1955, \$119.02; and 1956, \$121.76; and

WHEREAS, during the same period of time, the cost of labor, material and supplies necessary in the production of sugar cane and the cost of living have greatly increased; and

WHEREAS, the Secretary of Agriculture of the United States has authority under the Sugar Act of 1948, as amended, to provide quotas for the marketing of raw sugar which will result in higher returns to sugar cane producers in the domestic sugar industry; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Secretary of Agriculture of the United States is hereby respectfully requested to take such action as is authorized under the terms of the Sugar Act of 1948, as amended, as will result in substantial increases in the price of raw sugar on the New York market.

SECTION 2. Certified copies of this Joint Resolution shall be sent to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of In-

terior, to the Secretary of Agriculture and to the Delegate to the Congress from the Territory of Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved April 23, 1957.) S.J.R. 45, J.R. 2.

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### J. R. 3

Joint Resolution Requesting the Congress of the United States of America to Amend the Hawaiian Organic Act to Provide for the Employment and Compensation of Employees of the Board of Harbor Commissioners of the Territory of Hawaii in Accordance with the Laws of the Territory of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to amend Section 106 of the Hawaiian Organic Act substantially as set forth in the following form of bill:

"A Bill to Amend Section 106 of the Hawaiian Organic Act.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

Section 1. That **Section 106** of the Hawaiian Organic Act be amended by amending the last sentence of the first paragraph to read as follows:

'The board shall likewise have power to appoint and remove clerks, wharfingers and their assistants, pilots and pilotboat crews, and all such other employees as may be necessary, and to fix their compensation, in accordance with the laws of the Territory; to make rules and regulations pursuant to this section and not inconsistent with law; and generally shall have all powers necessary fully to carry out the provisions of this section.'

Section 2. That the employees of the board of harbor commissioners of the Territory of Hawaii on the effective date of this Act shall continue in employment, subject to suspension, demotion and dismissal as provided in the civil service laws of the Territory of Hawaii as amended from time to time.

Section 3. This Act shall take effect on and after the date of its approval."

SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States and the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved April 25, 1957.) H.J.R. 5, J.R. 3.

## J. R. 4

Joint Resolution Requesting the Congress of the United States to Extend the Provisions of Section 373 of the Judicial Code to the Judges of the Circuit Courts of the Territory of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact a bill substantially as follows:

"A Bill Amending Section 373 of the Judicial Code so as to Extend the Application Thereof to the Judges of the Circuit Courts of the Territory of Hawaii.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

SEC. 1. This **section 373** of the Judicial Code (28 U.S.C. 373) is hereby amended by inserting after the words 'any justice of the Supreme Court' the following: 'or judge of a Circuit Court'.

SEC. 2. This Act shall apply to any judge of a Circuit Court of the Territory of Hawaii who, after the approval of this Act, resigns, fails of reappointment, or is removed by the President upon the ground of mental or physical disability. Any such judge shall be credited, in the computation of the aggregate years of judicial service, with service, whether before or after the approval of this Act, in any of the courts referred to in the first paragraph of section 373 of the Judicial Code, as amended by this Act.

Any judge of the United States District Court for the District of Hawaii and any justice of the Supreme Court of the Territory of Hawaii who, after the approval of this Act, resigns, fails of reappointment, or is removed by the President upon the ground of mental or physical disability, shall be credited, in the computation of aggregate years of judicial service, with his service in a Circuit Court of the Territory of Hawaii, whether before or after the approval of this Act, as well as service in the other courts referred to in the first paragraph of section 373 of the Judicial Code.

SEC. 3. This Bill shall take effect upon its approval."

SECTION 2. Certified copies of this Resolution, upon its adoption, shall be forwarded to the Secretary of the Interior, the Delegate to Congress from Hawaii, the President of the Senate of the United States, and the Speaker of the House of Representatives of the United States.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved April 26, 1957.) H.J.R. 56, J.R. 4.



### J. R. 5

Joint Resolution Requesting the Congress of the United States to Enact Legislation Giving the University of Hawaii Title to its Lands.

WHEREAS, under the Hawaiian Organic Act public lands in the Territory are properties of the United States but are placed under the jurisdiction of the Territory for purposes of administration and disposal only as provided therein; and

WHEREAS, since the Board of Regents of the University of Hawaii does not have title to public land devoted to the use of the university, the university has been unable to take advantage of federal benefits provided for universities and other schools of higher learning or to otherwise secure funds for university purposes; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation amending the Hawaiian Organic Act in such manner that title to all university real property shall be vested in the board of regents of the University of Hawaii for the use and benefit of the university.

SECTION 2. Duly certified copies of this Joint Resolution shall be forwarded to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the Secretary of the Interior, and the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved April 30, 1957.) H.J.R. 3, J.R. 5.

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### J. R. 6

Joint Resolution Requesting the Congress of the United States to Enact Legislation, Amending the Hawaiian Organic Act and Approving Amendments of the Hawaiian Land Laws With Respect to Leases and Other Disposition of Land.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact a bill substantially as follows:

“A Bill Amending the Hawaiian Organic Act and Approving Amendments of the Hawaiian Land Laws, With Respect to Leases and Other Dispositions of Land.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

SEC. 1. **Section 73(d)** of the Hawaiian Organic Act (48 U.S.C. 665) is hereby amended as follows:

(a) By deleting therefrom the words ‘fifteen years’ and inserting in lieu thereof the words ‘sixty-five years’.

(b) By amending the proviso, which appears at the end of the subsection, so that the same shall read as follows: '**Provided**, That the Commissioner may, with the approval of the Governor and at least two-thirds of the members of the Land Board, omit such withdrawal provision from, or limit the same in, the lease of any lands whenever he deems it advantageous to the Territory of Hawaii. Land so leased shall not be subject to such right of withdrawal, or shall be subject only to a right of withdrawal as limited in the lease.'

SEC. 2. **Section 73(1)** of the Hawaiian Organic Act (48 U.S.C. 673) is hereby amended as follows:

(a) By inserting a sentence, to follow the first sentence and to read as follows: 'Leases may be made by the Commissioner of Public Lands, with the approval of two-thirds of the members of the Board of Public Lands, for the occupation of lands for general purposes, or for certain special purposes, for terms up to but not in excess of sixty-five years.'

(b) By deleting from the present second sentence, now the third sentence, the words 'No lease of agricultural lands exceeding forty acres in area, or of pastoral or waste lands exceeding two hundred acres in area, shall be made without the approval of two-thirds of the Board of Public Lands, which is hereby constituted,' and inserting in lieu thereof the following: 'There shall be a Board of Public Lands,'.

SEC. 3. **Section 91** of the Hawaiian Organic Act (48 U.S.C. 511) is hereby amended by adding thereto a new paragraph to read as follows: 'The provisions of this section shall not vitiate any right vested by any lease or other disposition of property made under this Act, or under the land laws of Hawaii approved by the Congress, or otherwise authorized by the Congress. If property, the title to which remains in the United States, is taken under the authority of this section for the uses and purposes of the United States, the taking nevertheless shall be subject to vested rights, or else just compensation shall be made as provided by law for the taking of those rights. Nothing in this section shall be deemed to authorize the withdrawal of property for public purposes without just compensation to the lessee or other party affected, or to require inclusion in the terms of the governing instrument of a provision for such withdrawal.'

SEC. 4. The amendment of **section 99-53** of the Revised Laws of Hawaii 1955, made by the Twenty-ninth Legislature, is hereby approved.

SEC. 5. This Act shall take effect upon its approval."

SECTION 2. (a) **Section 99-53** of the Revised Laws of Hawaii 1955 is amended by deleting therefrom the word "twenty-one" and inserting in lieu thereof "sixty-five".

(b) This section shall take effect upon the approval by the Congress of the United States of the amendment made by this section. The Congress of the United States is hereby respectfully requested to approve the amendment.

LEASES OF PUBLIC LANDS  
CLASSIFICATION OF SCHOOL SECRETARIES  
TIDAL LANDS

JR 6, 7, 8

SECTION 3. Certified copies of this Resolution, upon its adoption, shall be forwarded to the Secretary of the Interior, the Delegate to Congress from Hawaii, the President of the Senate of the United States, and the Speaker of the House of Representatives of the United States.

SECTION 4. This Joint Resolution shall take effect upon its approval.

(Approved May 1, 1957.) H.J.R. 60, J.R. 6.

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J. R. 7

Joint Resolution Relating to the Classification of School Secretaries.

WHEREAS, it is one of the cardinal principles of classification that similar jobs be grouped together in classes and that series of classes be created to reflect proper differentials based upon duties, responsibilities and complexities of the jobs; and

WHEREAS, for many years it has been recognized that there is a sufficient dissimilarity between positions in the Department of Public Instruction of the Territory, formerly classified as school secretaries, and other fiscal, administrative and clerical classes to warrant the creation and maintenance of a series of classes for school secretaries; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Personnel Director of the Department of Civil Service of the Territory of Hawaii is hereby authorized and directed to create a series of classes to be designated School Secretary I, II, III, and IV, and to distinguish said classes on the basis of the duties, responsibilities and complexities of said positions and to allocate to said classes the positions formerly referred to as school secretaries.

SECTION 2. The Personnel Director of the Department of Civil Service of the Territory is further authorized and directed to allocate said classes to those salary ranges in the Compensation Plan of the Territory which most appropriately reflect the duties, responsibilities and complexities of these positions when compared with other classes in the classification plan of the Territory.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 2, 1957.) H.J.R. 95, J.R. 7.

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J. R. 8

Joint Resolution Requesting the Congress of the United States to Enact Legislation Relating to Lands Beneath Tidal Waters in the Territory of Hawaii, and Filled In, Made or Reclaimed Lands in Said Territory; And Amending Section 112-1 of the Revised Laws of Hawaii 1955 to Conform to Such Congressional Legislation Effective Upon the Enactment Thereof.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact a bill substantially as follows:

“A Bill Relating to Lands Beneath Tidal Waters in the Territory of Hawaii, and Filled In, Made or Reclaimed Lands in Said Territory.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

SEC. 1. Insofar as the President has transferred, or hereafter shall transfer, to the Territory of Hawaii the title to lands beneath tidal waters which are suitable for reclamation, or the title to reclaimed lands which formerly were lands beneath tidal waters, the same shall be deemed to be public lands of the Territory of Hawaii and the United States shall retain only such rights therein as would exist if the Territory of Hawaii were a state. Section 106 of the Hawaiian Organic Act (48 U.S.C. 545) shall not apply to the lands which by this Act are given the status of public lands unless the same are set aside under the jurisdiction of the board of harbor commissioners; **provided**, that no work shall be done on lands beneath tidal waters without the consent of the board of harbor commissioners and the secretary of the military department concerned.

SEC. 2. In addition to the power conferred upon the President by section 91 of the Hawaiian Organic Act (48 U.S.C. 511), the president may transfer to the Territory of Hawaii the title to (a) any lands beneath tidal waters suitable for reclamation, and (b) any reclaimed lands which formerly were lands beneath tidal waters.

SEC. 3. Whenever, in connection with reclaimed lands or reclamation of lands beneath tidal waters, the commissioner of public lands deems it advantageous to the Territory of Hawaii in order to settle the rights (littoral or otherwise), if any, of an abutting owner, or to consolidate the holdings of public lands in the vicinity or provide public ways or access to the public lands, he may with the approval of the Governor and two-thirds of the members of the board of public lands sell, lease, or transfer by way of an exchange, to such abutting owner, or an owner whose land is needed for such consolidation of public holdings, access or ways, without public auction and without regard to any limitation of the Hawaiian Organic Act or the land laws of Hawaii in respect of the area and value of land that may be conveyed by way of exchange, lands having the status of public lands.

SEC. 4. Nothing in this Act shall be deemed to alter the control of the Congress over the laws of Hawaii relating to public lands, including the lands which by this Act are given the status of public lands.

SEC. 5. As used in this Act:

The term ‘lands beneath tidal waters’ means all lands perma-

nently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coast line of each of the islands comprising the Territory of Hawaii.

The term 'reclaimed lands' refers to filled in or made lands which formerly were lands beneath tidal waters, and the term 'reclamation' refers to the filling in or making of land by any means.

SEC. 6. This Act shall take effect upon its approval."

SECTION 2. Effective upon the enactment by Congress of legislation relating to the application of section 106 of the Hawaiian Organic Act, in respect to lands given the status of public lands, **section 112-1** of the Revised Laws of Hawaii 1955 is amended to conform thereto.

SECTION 3. Certified copies of this Joint Resolution, upon its adoption, shall be forwarded to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States, the Secretary of the Interior, and the Delegate to Congress from Hawaii.

SECTION 4. This Joint Resolution shall take effect upon its approval.

(Approved May 2, 1957.) **H.J.R. 54, J.R. 8.**

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### J. R. 9

Joint Resolution Requesting the Congress of the United States to Amend the Hawaiian Homes Commission Act 1920 to Permit the Establishment of a Post Office on Hawaiian Home Lands.

WHEREAS, the provisions of the Hawaiian Homes Commission Act 1920, as amended, permit the establishment of certain public services and facilities on Hawaiian home lands, but do not make reference to the operation of a post office of the United States, and it appears that the Commission cannot allow the operation of a post office on Hawaiian home lands; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation to amend **section 207 (c) (1) (A)** of the Hawaiian Homes Commission Act 1920, as amended, to read as follows:

"(A) churches, hospitals, public schools, post offices;"

SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior and to the Delegate to the Congress for Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 2, 1957.) **S.J.R. 41, J.R. 9.**

**J. R. 10**

Joint Resolution Requesting the Congress of the United States to Enact Legislation Providing Funds to Pay for a Second Bore to Wilson Tunnel, Island of Oahu, Territory of Hawaii.

WHEREAS, the Wilson Tunnel on the Island of Oahu, Territory of Hawaii, as authorized and now under construction, consists of a single bore; and

WHEREAS, the tunnel is of great value to the Department of Defense of the United States in that it provides a short, low-grade highway between installations on the leeward side of the Koolau Range (such as Pearl Harbor, Navy Yard, Barbers Point Naval Air Station, Fort Shafter, and Schofield Barracks) and installations on the windward side of the Koolau Range (such as Kaneohe Marine Corps Air Station); and

WHEREAS, a second tunnel bore would increase considerably the value of the tunnel for defense purposes; and

WHEREAS, a second tunnel bore would also aid the Territory of Hawaii in many ways, among them that it would provide employment in an area which, although it may soon be classified Group IV (substantial labor surplus) by the United States Department of Labor, is not able to receive the assistance (such as placement of defense contracts, and receipt of accelerated tax amortization by defense plants) which the United States now seeks to give to such an area; now, therefore.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation providing funds to be used by the Territory of Hawaii to survey, plan and construct a second bore in connection with the Wilson Tunnel.

SECTION 2. A certified copy of this Joint Resolution to be sent to each of the following officers of the United States: The President of the United States, the President of the Senate, the Speaker of the House of Representatives, the Secretary of Defense, the Secretary of the Interior, and the Delegate to the Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 2, 1957.) H.J.R. 35, J.R. 10.

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**J. R. 11**

Joint Resolution Requesting the Congress of the United States to Amend the Bankhead-Jones Farm Tenant Act (As Amended) to Allow the Making of Real Estate Mortgage Loans on Long-Term Leased Lands, Including Hawaiian Home Lands and the Public Lands of the Territory of Hawaii.

WHEREAS, the applicants for and lessees of the Hawaiian home lands are in dire need of loans for the construction of homes and improvements of homesteads in the furtherance of the purposes of the Hawaiian Homes Commission Act of 1920 (as amended); and

WHEREAS, long-term agricultural lessees, of the public lands of the Territory of Hawaii, who are coffee growers in Kona in the county of Hawaii, are likewise in great need of loans for the construction of housing accommodations for their seasonal migratory coffee pickers and for other agricultural purposes; and

WHEREAS, such lessees do not qualify for loans under the said Bankhead-Jones Farm Tenant Act because they are not, and often cannot be, fee simple owners of the land involved; and

WHEREAS, the security of loans under the said Bankhead-Jones Farm Tenant Act made to such lessees will not be impaired, the legal title to Hawaiian home lands being already in the United States and the title to public lands being in the Territory of Hawaii, and the leases being for a long term; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to amend the pertinent provisions of the Bankhead-Jones Farm Tenant Act (as amended) to allow the making of real estate mortgage loans on long-term leased lands in the Territory of Hawaii, including Hawaiian home lands under the Hawaiian Homes Commission Act of 1920 (as amended) and public lands of the Territory of Hawaii.

SECTION 2. Certified copies of this Joint Resolution shall be sent to the President of the Senate and Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the United States Department of Interior, to the Administrator of the United States Department of Agriculture (Farms Home Administration) and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 3, 1957.) H.J.R. 40, J.R. 11.

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### J. R. 12

Joint Resolution Requesting the Congress of the United States to Amend Section 60 of the Hawaiian Organic Act to Lower the Voting Age.

WHEREAS, the people of Hawaii are desirous of extending to its youth a privilege of voting for their elected officials; and

WHEREAS, the people of Hawaii are confident that their fellow citizens who have attained the age of twenty years are fully qualified and responsible; and

WHEREAS, the legal voting age in many mainland jurisdictions is set at twenty years; and

WHEREAS, the Constitution of the proposed State of Hawaii provides that any citizen of the Territory otherwise qualified who shall have attained the age of twenty years shall be entitled to vote; and

WHEREAS, the people of Hawaii believe that the lowering of the

voting age as suggested herein is a true expression of democracy in practice; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby requested to amend section 60 of the Organic Act to read substantially as follows:

"A Bill Amending Section 60 of the Hawaiian Organic Act and Lowering the Voting Age of the Citizens of the Territory of Hawaii.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

SEC. 1. That section 60 of the Hawaiian Organic Act is hereby amended to read as follows:

**'SEC. 60. Qualifications of voters for representatives.** That in order to be qualified to vote for representatives, a person shall:

First. Be a citizen of the United States.

Second. Have resided in the Territory not less than one year preceding and in the representative district in which he offers to register not less than three months immediately preceding the time at which he offers to register.

Third. Have attained the age of twenty years.

Fourth. Prior to each regular election, during the time prescribed by law for registration, have caused his name to be entered on the register of voters for representatives for his district.

Fifth. Be able to speak, read and write the English or Hawaiian language.

SEC. 2. This bill shall take effect upon its approval.' "

SECTION 2. Upon its approval, certified copies of this Joint Resolution shall be forwarded to the President of the United States, the Secretary of the Interior, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, and the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 3, 1957.) H.J.R. 48, J.R. 12.

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### J. R. 13

Joint Resolution Requesting the Congress of the United States to Establish an Operating Branch and Complete Facilities of the Voice of America in the Territory of Hawaii.

WHEREAS, the government of the United States through the operation of the Department of State did establish and is operating two one-



hundred kilowatt shortwave transmitters on the island of Oahu in the Territory of Hawaii for transmitting Voice of America programs to the far eastern part of the world; and

WHEREAS, this installation and all of its facilities can be operated fully so as to permit live broadcasts to originate in the Territory of Hawaii; and

WHEREAS, the economic, racial, cultural and historical backgrounds of the various peoples of the Territory are such that among them can be selected persons of outstanding achievements who can relate their records of success and self-betterment under our democratic way of life; and

WHEREAS, the flowing number of visitors, including government and public officials from countries and nations of the Far East, have never failed to comment on the remarkable harmony and cooperation with which all the people of the various racial backgrounds live and work in this showcase of democracy in the Pacific; and

WHEREAS, there are adequate facilities presently available for live broadcasts to be originated from the Territory of Hawaii, such as, the radio facilities presently under the command of the Commander-in-Chief, Pacific, presently used for home town recordings and broadcasts; and

WHEREAS, the full utilization of existing facilities and the talents and abilities of the people of Hawaii can vastly increase the overall effectiveness of the Voice of America; now, therefor,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to seek the cooperation of the Department of State to initiate live local broadcasts of the Voice of America to originate from the Territory of Hawaii to the end that the Secretary of State shall use all efforts to utilize all existing facilities to accomplish the objectives of this Resolution.

SECTION 2. That certified copies of this Joint Resolution be forwarded to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the Secretary of State of the United States, the Secretary of the Interior, the Delegate to Congress from Hawaii, Director of the United States Information Service and the Commander-in-Chief, Pacific.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 3, 1957.) H.J.R. 81, J.R. 13.

**J. R. 14**

Joint Resolution Relating to the Credit in the Employees' Retirement System of the Territory of Hawaii for Albert H. Shiraki.

WHEREAS, Albert H. Shiraki has been employed by the board of public parks and recreation of the city and county of Honolulu for many years; and

WHEREAS, from 1934 to 1937 the said Albert H. Shiraki, while continuing to work for the board of public parks and recreation of the city and county of Honolulu, received his salary from funds of the works progress administration of the federal government; and

WHEREAS, because of said fact, Albert H. Shiraki was removed from the employment rolls of the city and county of Honolulu, but actually continued in the performance of his same work; and

WHEREAS, the actual service of Albert H. Shiraki for the board of public parks and recreation of the city and county of Honolulu has been continuous for many years prior to and including the years 1934 to 1937 and continuing until the present; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That Albert H. Shiraki, upon the payment of the contributions plus interest to the employees' retirement system of the Territory of Hawaii which he would have normally paid had he remained on the employment rolls of the board of public parks and recreation of the city and county of Honolulu, during the period from 1934 to 1937, be given full retirement credit for said period.

SECTION 2. The city and county of Honolulu is authorized to pay its pro rata share of the retirement contributions, plus interest, with which to match the contributions of Albert H. Shiraki as prescribed in section 1 of this Joint Resolution.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 13, 1957.) **S.J.R. 21, J.R. 14.**

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**J. R. 15**

Joint Resolution Changing the Designation of Hilo Memorial Hospital to General Hospital Division of Puumaile and Hilo Memorial Hospital in Act 401 of the Session Laws of Hawaii 1949.

WHEREAS, by item 44 of section 2 (a) of Act 401, Session Laws of Hawaii 1949, the sum of \$500,000.00 was appropriated out of territorial loan funds for the construction of Hilo memorial hospital in the county of Hawaii; and

WHEREAS, by Act 29, Session Laws of Hawaii, 1951, the Hilo memorial hospital and the Puumaile hospital in the county of Hawaii were combined into a single organization under the name of Puumaile and Hilo memorial hospital; and

WHEREAS, due to the nonexistence of Hilo memorial hospital as

a separate hospital, there may be a technical flaw in the designation of hospital in said Act 401; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 2 (a) of Act 401, Session Laws of Hawaii 1949 is hereby amended by deleting from item 44 thereof the words "Hilo Memorial Hospital" and by inserting in lieu thereof the words "general hospital division of Puumaile and Hilo Memorial Hospital".

SECTION 2. This Joint Resolution shall take effect upon its approval.

(Approved May 16, 1957.) S.J.R. 68, J.R. 15.

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### J. R. 16

Joint Resolution Requesting the Congress of the United States of America to Enact Legislation Amending the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), as Amended, to Authorize the Hawaiian Homes Commission to Approve and Guarantee Loans Made to Hawaiian Homes Homesteaders by Private Financing Institutions.

WHEREAS, the Hawaiian Homes Commission has been unable to carry out its program of putting qualified homesteaders on available land because of the limited funds available for loan purposes; and

WHEREAS, local banks, building and loan associations, and other financial institutions have expressed willingness to make loans to Hawaiian Homes homesteaders for home construction or repair purposes if the Hawaiian Homes Commission would guarantee such loans; and

WHEREAS, such loans would make funds available and would be desirable since they would permit the Hawaiian Homes Commission to more adequately carry out its program of putting its homesteaders on the land; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to enact legislation amending the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), as amended, to authorize the Hawaiian Homes Commission to approve and guarantee loans not exceeding \$10,000 made to Hawaiian homes homesteaders by private financing institutions.

SECTION 2. Certified copies of this Joint Resolution shall be transmitted to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the Secretary of the Interior, and the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 22, 1957.) H.J.R. 9, J.R. 16.

## J. R. 17

Joint Resolution Requesting the Congress of the United States to Enact Legislation to Authorize Certain Land Exchanges at Honolulu, Oahu, Territory of Hawaii, for the Development of the Honolulu Airport Complex.

WHEREAS, the Territory of Hawaii desires to acquire certain lands from the United States of America for the development of Honolulu International Airport; and

WHEREAS, the United States of America desires to acquire certain lands from the Territory of Hawaii for the development of naval air facilities at Keehi Lagoon and air force facilities at Hickam Air Force Base; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation to authorize the mutual exchange of certain lands at Honolulu, Oahu, Territory of Hawaii, between the United States of America and the Territory of Hawaii, by the adoption of a bill in substantially the following form:

"A Bill to Authorize Land Exchanges at Honolulu, Oahu, Territory of Hawaii, for the Development of the Honolulu Airport Complex, consisting of the Honolulu International Airport, Hickam Air Force Base and Keehi Lagoon, an Outlying Facility of the Naval Air Station at Barber's Point.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

[SEC. 1.] That the Secretary of the Navy is authorized to convey without reimbursement, to the Territory of Hawaii, all of the right, title and interest of the United States in and to those portions of the former Naval Air Facility, Honolulu, and the General Supply Depot, Damon Tract, Naval Supply Center, Pearl Harbor, comprising an area of 77 acres, more or less, and described as follows:

Land Situate at Moanalua, Honolulu, Oahu,  
Territory of Hawaii

Being Lot 35, area 12.973 acres, as shown on Map 77, and Lot 36-B, area 63.678 acres, as shown on Map 144, said maps having been filed with the Assistant Registrar of the Land Court of the Territory of Hawaii in Land Court Application No. 1074 of the Trustees under the Will and of the Estate of Samuel M. Damon, deceased. Said Lot 35 being the land described in Transfer Certificate of Title No. 38090, and Lot 36-B being a portion of the land described in Transfer Certificate of Title No. 38094, both issued to the United States of America. Together with any or all improvements or utilities thereon or used in connection therewith.

SEC. 2. The Secretary of the Air Force is authorized to convey without reimbursement, to the Territory of Hawaii,

all of the right, title and interest of the United States in and to that portion of Hickam Air Force Base, Honolulu, comprising an area of 170 acres, more or less, and described as follows:

A portion of Hickam Air Force Base

Being a portion of Hickam Field, United States Military Reservation (portion of Parcel III, Final Order of Condemnation, United States of America Civil No. 289 dated April 9, 1935) Being also a portion of R. P. 7858 L.C.Aw. 7715 Apana 2 to Lot Kamehameha and a portion of Grant 4776 to Samuel M. Damon.

Land situated at Moanalua, Honolulu, Oahu, T.H.

Beginning at the Northeast corner of this piece of land, on the West side of John Rodgers-Keehi Lagoon Access Road, Hawaii Project DA-NR 10-B (1), and on the South side of Lot C-4-B-1, Map 136 of Land Court Application 1074, the true azimuth and distance from the Southeast corner of said Lot C-4-B-1 being  $97^{\circ} 20' 15.99$  feet, and the coordinates of said point of beginning referred to Government Survey Triangulation Station 'Salt Lake' being 10,524.00 feet South and 5,894.95 feet West, thence running by azimuths measured clockwise from true South:

1.	$00^{\circ}$	$00'$	626.01	feet along Lot C-6, Map 74 of Land Court Application 1074, along Territorial Law No. 17194;
2.	$00^{\circ}$	$00'$	563.79	feet along Lot 36, Map 77 of Land Court Application 1074, along U. S. Civil No. 527;
3.	$349^{\circ}$	$19'$	$24''$	3178.18 feet along present Honolulu International Airport, Governor's Executive Order No. 1016;
4.	$90^{\circ}$	$03'$	$20''$	1922.84 feet along the remainder of Hickam Air Force Base to a pipe;
5.	$180^{\circ}$	$03'$	$20''$	1760.25 feet along same to a spike in pavement;
6.	$90^{\circ}$	$03'$	$20''$	400.00 feet along same to a pipe;
7.	$180^{\circ}$	$03'$	$20''$	1908.49 feet along same to a spike in pavement;
8.	$276^{\circ}$	$29'$	450.90	feet along same to a spike in pavement;

9.	186°	29'	851.01	feet along same;
10.	277°	20'	1196.15	feet along Lot C-4-B-1, Map 136 of Land Court Application 1074, along U.S. Civil No. 436 to the point of beginning and containing an area of 170.990 Acres.

Together with any or all improvements or utilities thereon or used in connection therewith.

SEC. 3. The governor of the Territory of Hawaii is authorized to convey without reimbursement to the United States all of the right, title and interest of the Territory of Hawaii in and to that portion of the Honolulu International Airport, comprising an area of 174 acres, more or less, and described as follows:

Land situate at Moanalua, Honolulu, Oahu  
Territory of Hawaii

Being a portion of the Honolulu International (formerly John Rodgers) Airport as described in and set aside by the governor of the Territory of Hawaii by Executive Order No. 1016, and Being also a portion of the land as described in and title transferred to the Territory of Hawaii by Presidential Executive Order No. 10121.

Beginning at the Westerly corner of this tract of land, being also a point in common on the converging boundaries of Hickam Field and Fort Kamehameha Military Reservations, the coordinates of said point of beginning referred to Government Survey Triangulation Station 'Salt Lake' being 16,874.10 feet South and 5,896.30 feet West, and running by azimuths measured clockwise from true South:

1.	228°	49'	0.35	feet along Hickam Field, United States Military Reservation (United States of America Civil No. 289), being along Parcel 2 of proposed Navy Sea- drome Area;
2.	244°	22'	33.00	feet along same;
3.	231°	55'	30"	298.50 feet along same;
4.	222°	20'	30"	401.40 feet along same;
5.	212°	53'		139.80 feet along same;
6.	207°	57'	30"	222.80 feet along same;
7.	201°	40'		104.87 feet along same;

- |    |      |     |         |   |
|----|------|-----|---------|---|
| 8. | 233° | 00' | 878.84  | feet along the remainder of Honolulu International Airport, being a portion of reclaimed lands transferred to the Territory of Hawaii by Presidential Executive Order No. 10121;                |
| 9. | 270° | 00' | 3607.69 | feet along same, along the remainder of Area 3 as reserved for purposes of the United States of America in Presidential Executive Order No. 10121, to highwater mark at Seaplane Docking Basin; |

Thence along the Seaplane Docking Basin and Seaplane Runway 'A' following along highwater mark for the next three (3) courses the direct azimuth and distance between points at said highwater mark being:

- |     |      |         |         |   |
|-----|------|---------|---------|---|
| 10. | 52°  | 30'     | 1871.69 | feet;   |
| 11. | 16°  | 00'     | 767.64  | feet;   |
| 12. | 52°  | 59' 05" | 1722.70 | feet;   |
| 13. | 110° | 00'     | 414.47  | feet along the remainder of Honolulu International Airport; along the remainder of Moanalua Fishery, (Territory of Hawaii Final Order of Condemnation Law No. 16653) to a point on the easterly boundary of Fort Kamehameha United States Military Reservation; |
| 14. | 216° | 30'     | 421.10  | feet along Fort Kamehameha United States Military Reservation, and along Area 9 of the United States Naval Reservation;   |

15.	163°	00'	260.00	feet along Area 9 of the United States Naval Reservation (formerly portion of Fort Kamehameha United States Military Reservation);
16.	105°	44'	1607.00	feet along same, and along Fort Kamehameha United States Military Reservation;
17.	143°	45'	389.25	feet along Fort Kamehameha United States Military Reservation to the point of beginning and containing an area of 172.212 Acres.

Together with access thereto and easements for utilities to be used in connection therewith.

SEC. 4. The governor of the Territory of Hawaii is authorized to convey without reimbursement to the United States all of the right, title and interest of the Territory in and to those portions of the Halawa and Moanalua fisheries, and the submerged lands subjacent thereto, comprising an area of 156 acres, more or less, and described as follows:

Being a portion of Moanalua Fishery (Governor's Executive Order No. 1016) and a portion of Halawa Fishery.

Situate at Moanalua, Honolulu, and Halawa, Ewa, Oahu, T. H.

Beginning at the Northeasterly corner of this piece of land, on the Easterly side of Fort Kamehameha Military Reservation, the coordinates of said point of beginning referred to Government Survey Triangulation Station 'Salt Lake' being 18,210.90 feet South and 4,293.81 feet West, thence running by azimuths measured clockwise from true South:

1.	290°	00'	414.49	feet along the remainder of Moanalua Fishery (Governor's Executive Order No. 1016);
2.	52°	59'	05"	2503.69 feet along same;
3.	110°	00'	7986.50	feet along same;
4.	110°	00'	957.00	feet along the remainder of Halawa Fishery; Thence along shoreline, along Ft. Kamehameha Military Reservation for the next 19 courses, the



				direct azimuths and distances from point to point along said shoreline being:
5.	270°	35'	20"	225.02 feet;
6.	280°	05'	40"	290.85 feet;
7.	257°	50'		239.14 feet;
8.	243°	05'		142.51 feet;
9.	233°	12'		92.13 feet to Kumumau;
10.	268°	46'		1342.70 feet;
11.	285°	45'		1560.00 feet;
12.	301°	53'		1208.00 feet;
13.	287°	00'	30"	311.80 feet;
14.	290°	41'		980.80 feet;
15.	298°	23'	30"	797.00 feet;
16.	293°	26'		768.70 feet;
17.	318°	40'		498.20 feet;
18.	278°	48'		494.10 feet;
19.	268°	30'		568.80 feet;
20.	256°	00'		360.00 feet;
21.	187°	00'		235.00 feet;
22.	232°	00'		790.00 feet;
23.	216°	30'		318.90 feet to the point of beginning and containing an area of 156.844 acres, more or less.

Together with access thereto and easements for utilities to be used in connection therewith.

SEC. 5. The governor of the Territory of Hawaii is authorized to convey without reimbursement to the United States all of the right, title and interest of the Territory in and to those portions of the Halawa and Moanalua Fisheries, and the submerged lands subjacent thereto, comprising an area of 344 acres, more or less and described as follows:

Being a strip of land one thousand feet wide and fifteen thousand feet long, and

Being a portion of Moanalua Fishery (Governor's Executive Order No. 1016) and a portion of Halawa Fishery.

Situated off shore at Moanalua, District of Honolulu, and Halawa, District of Ewa, Oahu, Territory of Hawaii. Beginning at the most easterly corner of this piece of land, on the southeasterly side and off-shore of Fort Kamehameha Military Reservation, the true azimuth and distance from the most southerly corner of proposed Navy Seaplane Base being 329° 35' 51" 4,029.15 feet, the coordinates of said point of beginning

referred to Government Survey Triangulation Station 'Salt Lake' being 21,827.76 feet South and 1865.30 feet West, thence running by azimuths measured clockwise from true South:

- |    |      |     |          |   |
|----|------|-----|----------|---|
| 1. | 19°  | 00' | 1000.00  | feet along the remainder of Moanalua Fishery (Governor's Executive Order No. 1016);   |
| 2. | 109° | 00' | 15000.00 | feet along same and along the remainder of Halawa Fishery;  |
| 3. | 199° | 00' | 1000.00  | feet along the remainder of Halawa Fishery;   |
| 4. | 289° | 00' | 15000.00 | feet along same and along the remainder of Moanalua Fishery (Governor's Executive Order No. 1016) to the point of beginning and containing an area of 344.353 acres." |

SECTION 2. Certified copies of this Joint Resolution shall be transmitted to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the Secretary of the Interior, and the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 22, 1957.) S.J.R. 53, J.R. 17.

### J. R. 18

Joint Resolution Authorizing the Counties and the Territorial Highway Department to Enter into Agreements for the Improvement and Maintenance of County Highways Designated as Portions of the Federal Primary or Secondary Highway System of the Territory.

WHEREAS, heretofore from time to time, numerous sections or portions of county highways in this Territory have been designated as portions of the federal primary or secondary highway system by the territorial highway department; and

WHEREAS, such county highways, notwithstanding their inclusion by virtue of such designation in the federal primary or secondary highway system, have not been improved by the expenditure of federal funds and their status changed to territorial highways; and

WHEREAS, such county highways must be maintained in a safe condition by the county in which they are located until their improvement by the territorial highway department with federal matching funds; and

WHEREAS, each of the counties should be authorized to enter into agreements with the territorial highway department on a mutually advantageous basis for the maintenance or improvement of the said county highways; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The board of supervisors of any county shall have the power to enter into agreements with the territorial highway department providing for the maintenance or improvement by the territorial highway department of all county highways, or portions thereof, which have been designated as portions of the federal primary or secondary highway system, and the county entering into such agreements may pay the territorial highway department for the maintenance or improvement of such county highways out of the fuel tax funds or highway fund of such county.

SECTION 2. The territorial highway department is authorized to enter into the agreements referred to in the preceding section with any county.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 22, 1957.) S.J.R. 91, J.R. 18.

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### J. R. 19

Joint Resolution Requesting the Congress of the United States of America to Establish a Defense Highway System in the Territory of Hawaii and to Authorize Appropriations Therefor.

WHEREAS, the Highway Revenue Act of 1956 imposes certain taxes on the purchase, use and operation of motor vehicles; and

WHEREAS, certain amounts collected thereunder are appropriated to the Highway Trust Fund for the construction and reconstruction or improvement of the National System of Interstate and Defense Highways; and

WHEREAS, the Territory of Hawaii is an integral part of the United States of America and the taxes apply therein; and

WHEREAS, no highways in the Territory of Hawaii are included in the National System of Interstate and Defense Highways; and

WHEREAS, certain highways in the Territory of Hawaii are vital to the National Defense; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to establish a Defense Highway System in the Territory of Hawaii and to authorize appropriations therefor.

SECTION 2. Duly authenticated copies of this Joint Resolution shall be forwarded to the President of the United States, to the President of the Senate and Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior, to the Secre-

tary of Defense and to the Secretary of Commerce of the United States and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 22, 1957.) **H.J.R. 92, J.R. 19.**

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### J. R. 20

Joint Resolution Requesting the Congress of the United States of America to Enact Legislation Authorizing the Commissioner of Public Lands to Extend Leases of Certain Lands Damaged by the Tidal Waves of November 4, 1952, or March 9, 1957, in the Territory of Hawaii.

WHEREAS, the tidal waves of November 4, 1952, and March 9, 1957 caused considerable damages to water-front lands and to the improvements on such lands in the Territory of Hawaii; and

WHEREAS, in certain areas water-front lands are public lands under general leases; and

WHEREAS, the lessees of such lands have spent substantial sums of money in repairing or replacing improvements on such lands, damaged or destroyed by the tidal waves of November 4, 1952; and it is only fair, equitable and just that the terms of such general leases be extended at the original rental; and

WHEREAS, under the provisions of section 73 (d) of the Hawaiian Organic Act (31 Stat. 141), as amended, and of section 99-53 of the Revised Laws of 1955, the commissioner of public lands of the Territory of Hawaii may make general leases for a certain number of years only; and

WHEREAS, Public Law 721, 80th Congress, chapter 552, 2d Session, authorized the commissioner of public lands of the Territory of Hawaii in his discretion, at the request of the lessees, to extend the term of the lease at the original rental of all water-front lands under lease on April 1, 1946, where such lessees spend substantial sums in repairing or replacing improvements on such lands damaged or destroyed by the tidal waves of that date; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to enact legislation substantially as follows:

“An Act to Authorize the Extension of Leases of Certain Lands in the Territory of Hawaii.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

[SEC. 1.] That where a lessee of water-front lands in the Territory of Hawaii, under lease on November 4, 1952, or March 9, 1957, has spent substantial sums in repairing or replacing improvements on such lands damaged or destroyed

by the tidal waves of such date or dates, then notwithstanding any provision of the Organic Act of Hawaii (31 Stat. 141), as amended, or of the laws of the Territory of Hawaii, the commissioner of public lands of the Territory of Hawaii, at the request of the lessee, in his discretion may extend the term of the lease at the original rental: **Provided**, that no lease is extended beyond November 3, 1973."

SECTION 2. Duly certified copies of this Joint Resolution, upon its adoption, shall be forwarded to the President of the United States, to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Department of Interior and to the Delegate to the Congress from the Territory of Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 24, 1957.) H.J.R. 65, J.R. 20.

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### J. R. 21

Joint Resolution Requesting the Congress of the United States to Amend its Air Parcel Post Rates.

WHEREAS, numerous Hawaiian export businesses depend exclusively upon air transportation to the mainland for their perishable products; and

WHEREAS, air parcel post rates are unduly burdensome to these businesses because the present air parcel post charges on a package weighing nine ounces is the same as the charge for one that weighs a full pound; likewise a package weighing one pound one ounce has the same charge as one that weighs two pounds; similarly a package weighing two pounds one ounce is charged the same as one weighing three pounds, etc.; and

WHEREAS, such shipments which exceed the even pound or pounds by only a small fraction now pay highly excessive rates; now, therefore

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to amend the existing laws fixing the rates for air parcel post so that the charges for airmail parcel post will be at a flat rate of five cents per ounce for all parcels.

SECTION 2. Duly certified copies of this Joint Resolution shall, upon its approval, be forwarded to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Postmaster General, to the Secretary of the Interior, and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 27, 1957.) H.J.R. 13, J.R. 21.

## J. R. 22

Joint Resolution Requesting the Congress of the United States to Repeal Section 212 (d) (7) of the Immigration and Nationality Act.

WHEREAS, a great number of aliens residing in the Territory of Hawaii are affected by the provision of Section 212 (d) (7) of the Immigration and Nationality Act; and

WHEREAS, the people of the United States of America have long participated in the struggle for the principles of democracy in these troubled times of our history; and

WHEREAS, the loyalty of certain aliens to American ideals has been put to test many times in war and in peace and today these people stand as the products of democracy in the Far East; and

WHEREAS, the people of the Far East have always looked upon the people of the United States of America for leadership, fair-play and equality; and

WHEREAS, the United States of America, the citadel of freedom and justice, is the haven of the oppressed without regard to creed, color or national origin; and

WHEREAS, a great number of these persons permanently residing in Hawaii were brought to this Territory on the strength of the needs of the industries of Hawaii; and

WHEREAS, these certain aliens in Hawaii have contributed immensely in the economic development of this Territory and have wielded a tremendous influence in the political and social life of the community; and

WHEREAS, these people living in this Territory have amply demonstrated that they are law abiding and desirable people and that their contribution of talent, effort and service to help better the community in which they live has been recognized and appreciated; and

WHEREAS, in Hawaii, the showcase of democracy on this side of the Pacific, no inequities or injustice against any residents should exist; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby requested to repeal **Section 212 (d) (7)** of the Immigration and Nationality Act, which impedes and restricts the free travel of certain residents between Hawaii and the continental United States.

SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, the Secretary of the Interior, and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 27, 1957.) H.J.R. 71, J.R. 22.

**J. R. 23**

Joint Resolution Requesting the Congress of the United States to Enact Legislation Permitting the Territory of Hawaii to Appropriate Funds for Federal Flood Insurance.

WHEREAS, the Territory of Hawaii and its people have been subjected, from time to time, to the action of some of the most destructive forces of nature, such as earthquake, volcanic eruption, tidal wave and flood; and

WHEREAS, it is extremely difficult, if not impossible, for the people of the Territory to protect their property adequately against such natural forces; and

WHEREAS, the 84th Congress of the United States enacted the Federal Flood Control Insurance Act of 1956 (Chapter 1025, Public Law 1016) which permits the states and territories of the United States to participate in federal insurance to cover such hazards; and

WHEREAS, in order that the Territory may so participate, funds must be appropriated by the legislature to pay its share of the premiums of said insurance as required by the Federal Flood Control Insurance Act of 1956; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to pass legislation to enable the Territory of Hawaii, notwithstanding the provisions of the Hawaiian Organic Act, to appropriate funds necessary to cover its share of the premium payments as required by the Federal Flood Control Insurance Act of 1956.

SECTION 2. Certified copies of this Joint Resolution shall be sent to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States of America, to the Secretary of the Interior and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 27, 1957.) **H.J.R. 90, J.R. 23.**

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**J. R. 24**

Joint Resolution Requesting the Congress of the United States to Authorize the Commissioner of Public Lands to Exchange Certain Public Lands for Private Lands of Equal Value Required by the Territory of Hawaii for Public Highway Purposes.

WHEREAS, from time to time certain privately owned lands are required by the Territory of Hawaii for the relocation and realignment of certain public highways; and

WHEREAS, other lands of equal value consisting of rights of way of existing public highways to be so relocated or realigned, owned by or in the possession, use and control of the Territory, are available for exchanges with the owners of such privately owned lands; and

WHEREAS, in order to effect such exchanges the limitations imposed by **section 73 (1)** of the Hawaiian Organic Act should be waived; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That the Congress be, and it hereby is respectfully requested to authorize the commissioner of public lands of the Territory of Hawaii, in his discretion, to make certain exchanges of public lands, consisting of rights of way of existing public highways which are to be relocated or realigned, without regard to acreage and value limitations, for the purpose of acquiring privately owned lands needed for such relocation or realignment of public highways; and to that end the Congress of the United States is requested and urged to adopt a bill substantially in the following form, to wit:

“A Bill to Authorize the Commissioner of Public Lands of the Territory of Hawaii to Exchange Certain Public Lands for Private Lands of Equal Value Required for Public Highway Purposes.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

[SEC. 1.] That any limitations imposed by section 73 (1) of the Hawaiian Organic Act (31 Stat. 141), to the contrary notwithstanding, the commissioner of public lands, in his discretion but with the approval of the governor and two-thirds of the members of the board of public lands, is authorized to exchange public lands, consisting of rights of way of existing public highways which are to be relocated or realigned, for the purpose of acquiring privately owned lands of equal value required for such relocation or realignment of public highways.

SEC. 2. The lands received in the exchange authorized hereinabove shall, except as otherwise provided, have the same status and be subject to the same laws as the lands given in exchange.

SEC. 3. This Act shall take effect upon its approval.”

SECTION 2. That certified copies of this Joint Resolution shall be transmitted to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior and to the Delegate to Congress from Hawaii.

SECTION 3. That this Joint Resolution shall take effect upon its approval.

(Approved May 27, 1957.) **H.J.R. 91, J.R. 24.**



**J. R. 25**

Joint Resolution Requesting the Congress of the United States to Amend the Agricultural Adjustment Act of 1938, as Amended, to Include Coffee Under the Parity Payment Program.

WHEREAS, the Congress of the United States has passed numerous legislative measures assisting farmers in the production of specific agricultural commodities; and

WHEREAS, such assistance and support through programs authorized by the Agricultural Adjustment Act of 1938, as amended, is necessary to encourage the growing of coffee in the Territory of Hawaii; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation to include coffee among the basic agricultural commodities assisted and supported by programs under the Agricultural Adjustment Act of 1938, as amended, and to authorize parity payments to coffee growers in the Territory of Hawaii.

SECTION 2. Certified copies of this Joint Resolution shall be sent to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior, to the Secretary of Agriculture and to the Delegate to the Congress from the Territory of Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 28, 1957.) **H.J.R. 18, J.R. 25.**

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**J. R. 26**

Joint Resolution Relating to the Restoration to the Civilian Economy of Certain Federal Reservations in Urbanized Areas Now Under the Control of the Department of Defense.

WHEREAS, the Committee on Interior and Insular Affairs of the House of Representatives, in the 85th Congress and prior thereto, held hearings on the subject of utilization for the maximum public benefit of the public lands and other real property of the United States, particularly on the subject of federal reservations for defense purposes, and hearings on this subject were held in Hawaii in December, 1954, before a special subcommittee of the House Committee on Interior and Insular Affairs; and

WHEREAS, the hearings held in Hawaii brought out that federal reservations, in terms of value, comprised 24.55% of the total real property in the Territory; and

WHEREAS, the federal reservations for defense purposes in the Territory of Hawaii comprise two categories of lands, that is:

First: Lands purchased or condemned by the United States;  
and

Second: Lands withdrawn from the public lands of Hawaii by exercise of the power conferred on the President by section 91 of the Hawaiian Organic Act (48 U.S.C. 511); and

WHEREAS, the Committee on Interior and Insular Affairs of the House of Representatives, H. Rept. No. 2203 of the 84th Congress, referred to the series of hearings held on the subject of federal reservations for defense purposs and stated:

"\* \* \* it is apparent that the Military Establishment has not in all instances recognized that—concurrent with its asserted expansion requirements—there exist matching expansion demands for the civilian economy and domestic population growth. It is clear that the latter dictates a need for continuing reevaluation of defense holdings, particularly in heavily urbanized areas, and that the time to initiate such reevaluation is now.

When there is a collision between military and civilian requirements, it would seem that the measure must be 'highest and best use.'"; and

WHEREAS, at the hearings held by the Committee on Interior and Insular Affairs of the 85th Congress on H. R. 5538 and summarized in H. Rept. No. 215 accompanying the bill, it was stated by the Department of Defense that even when properties are currently serving essential defense purposes, it is recognized that, where a porperty is partially or completely surrounded by urban development and is of high value, such property can be disposed of and less costly replacement property acquired; and

WHEREAS, this Department of Defense testimony has direct bearing on the matter of continued retention by the United States of Fort De Russy, which was named in the aforesaid H. Rept. No. 215 as exemplifying the policy involved in this Defense Department testimony, and which is situated in the heart of the highly valuable Waikiki area, could be sold by the United States for upwards of \$20,000,000, consists almost entirely of lands in the first category, that is, lands purchased or condemned by the United States, and therefore if sold or leased would realize for the Treasury of the United States funds for acquisition of substitute Defense Department facilities; and

WHEREAS, the title to lands in the second category was ceded to the United States by the Republic of Hawaii, but the ceded lands did not become subject to the land laws of the United States, the Newlands Resolution of July 7, 1898, 30 Stat. 750, accepting the terms of the cession made by the Republic of Hawaii, so providing and further providing that the revenues from or proceeds of the ceded lands, "except as regards such part thereof as may be used or occupied for the civil, military or naval purposes of the United States" are for the benefit of the people of Hawaii; and

WHEREAS, under the terms of the cession so accepted, as the Congress of the United States has recognized in section 91 of the Hawaiian Organic Act and in other legislation, when land withdrawn by the United States for particular purposes has served those purposes the land is to be returned to the Territory for its benefit, the control of the public lands of Hawaii being vested by the Hawaiian Organic Act in

the commissioner of public lands appointed by the Governor of Hawaii with the advice and consent of the Senate of the Territory, and not in the Bureau of Land Management of the Department of the Interior; and

WHEREAS, in the report of the Department of the Interior upon the bill to return the Fort Armstrong property to the Territory, H. R. 6024 of the 84th Congress, which became Public Law 894 (70 Stat. 901, c. 850), the department stated:

"We consider that in the light of the Resolution of Annexation and section 91 of the Organic Act, cited above, the use of valuable city property by the military is justified only when the interests of national security clearly make such control essential. The land which would be restored to the Territory by enactment of H. R. 6024 belonged to the former Republic of Hawaii. The Territory's continuing need for such land must always be assumed."

WHEREAS, in H. Rept. No. 2203, accompanying the aforesaid H. R. 6024, the Committee on Interior and Insular Affairs of the House of Representatives agreed with the position taken by the Department of the Interior in its report to the Committee, and stated the issue of federal retention versus restoration to the Territory as follows:

"The committee agrees with the Territorial government of Hawaii and the Department of Interior in their position that the limited use to which the land in question is currently being put by certain Federal agencies does not justify its retention by the United States and that the land should consequently be restored to the possession, use, and control of the Territory.

\* \* \*

The committee has concluded, with the Department of the Interior, that in the light of the Resolution of Annexation and section 91 of the Hawaii Organic Act, the use of valuable city property by the military is justified only when the interests of national security clearly makes such control essential, either presently, or in the immediately foreseeable future."

WHEREAS, it was set forth in H. Rept. No. 215 accompanying H. R. 5538 of the 85th Congress, that the following lands in the second category are in urbanized areas and fall within the policy statement of the Department of Defense, that is: Sand Island, Bellows Field, and the Diamond Head Crater and surrounding areas of Fort Ruger; and

WHEREAS, at Sand Island there presently are some 313 acres, having the status of ceded land, under the control of the Army, in addition to Coast Guard and Navy areas at the same location, and the Army for all practical purposes has abandoned its facilities there but still retains control of this valuable urban area; and

WHEREAS, the military installations in the Pearl Harbor area are so extensive as to require the expansion of the Honolulu residential area in the Diamond Head-Waimanalo end of the island of Oahu, making imperative the release of federal defense reservations in that area which could be accommodated elsewhere; and

WHEREAS, Bellows Field, situated in the fast growing Waimanalo community and having an ocean frontage of 2.8 miles with a fine sandy beach extending its full length, while originally an air field no longer has

significance as such, and has become a recreational and training area and the site of global communication facilities, with the result that there is excess land not being put to "highest and best use" and the beach, which should be public, is in the federal reservation; and

WHEREAS, by Executive Order No. 10648 there were returned to the Territory portions of the Fort Ruger reservation, but as to the Diamond Head Crater and surrounding area it was specified that this shall be used for National Guard, Air National Guard, or Civil Defense purposes only, unless otherwise permitted by the Department of the Army, and this area is so situated in relation to Waikiki, and so vital in meeting the expanding residential needs of the population, which has been prevented from expanding in the Pearl Harbor direction, that the Territory would like to obtain the release of as much of this land as possible, making suitable arrangements in cooperation with the Defense Department for accommodation of any activity which might thereby be displaced; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The President of the United States, the Congress of the United States, the Department of Defense, and in particular the Departments of the Army and Air Force, are hereby respectfully requested to give favorable consideration to and to put into execution, the following program for putting to its highest and best use property in urban areas now held in federal reservations, in order to meet the demands of the civilian economy of the Territory and at the same time implement the Department of Defense policy of replacing valuable properties with other properties serving defense needs at lower cost, that is:

(a) That federal authorities, working with persons having knowledge of the local land situation designated by the Governor, develop a plan for the sale or leasing of the Fort De Russy property and sell or lease the same in such manner as to realize for the federal government the extremely high value of this property, to further the economy of the Territory, to provide for additional tourist facilities to take care of the tremendous influx of tourists, and enhance and improve the Waikiki area as a resort and convention area, it now being divided into two segments by reason of the interposition of the undeveloped Fort De Russy lands.

(b) That the portion of Sand Island now under Army control be returned to the Territory.

(c) That the excess lands and the beach at Bellows Field be returned to the Territory.

(d) That the requirement that the Diamond Head Crater and surrounding area of Fort Ruger be used only for National Guard, Air National Guard and Civil Defense purposes be removed.

SECTION 2. Certified copies of this Joint Resolution shall be sent to the President of the United States, to the President of the Senate and Speaker of the House of Representatives of the Congress of the United States, to each Committee on Interior and Insular Affairs of the Senate the House of Representatives of the Congress, to the Secretary of Defense, the Secretary of the Army and the Secretary of the Air Force, to

RETURN OF FEDERAL RESERVATIONS  
TAX EXEMPTION, HAWAIIAN HOMESTEADS  
RIGHT OF PURCHASE LEASES

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the Secretary of the Department of the Interior and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 28, 1957.) **H.J.R. 97, J.R. 26.**

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**J. R. 27**

Joint Resolution Requesting the Congress of the United States to Amend the Hawaiian Homes Commission Act to Extend the Period of Tax Exemption of Original Lessees From Five to Seven Years.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to amend subparagraph (7) of **section 208** of the Hawaiian Homes Commission Act, 1920, as amended, to read as follows:

“(7) The lessee shall perform such other conditions, not in conflict with any provisions of this title, as the Commission may stipulate in the lease: **Provided**, however, that an original lessee shall be exempt from all taxes for the first seven years from date of lease.”

SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior of the United States and to the Delegate to the Congress from the Territory of Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 29, 1957.) **H.J.R. 37, J.R. 27.**

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**J. R. 28**

Joint Resolution Relating to the Conditions and Terms of Right of Purchase Leases, and Amending Section 99-92 (a) of the Revised Laws of Hawaii 1955, Subject to Approval of the Congress, and Requesting Such Approval.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. **Section 99-92 (a)** of the Revised Laws of Hawaii 1955 is hereby amended by substituting the word “four” for the word “eight” in the provision for yearly rental found in line 1 thereof.

SECTION 2. The Congress of the United States is respectfully requested to approve the amendment contained in section 1 of this Joint Resolution.

SECTION 3. Certified copies of this Joint Resolution shall be forwarded to the President of the United States, the President of the

Senate and the Speaker of the House of Representatives of the Congress, the Secretary of the Interior, and the Delegate to Congress from Hawaii.

SECTION 4. Sections 2 and 3 of this Joint Resolution shall take effect upon its approval by the governor and section 1 shall take effect either upon its approval by the Congress, or upon the restoration to Hawaii, whether as a Territory or a state, of such power, control and disposition of the public lands as would render unnecessary the approval of Congress to section 1 hereof.

(Approved May 29, 1957.) **S.J.R. 22, J.R. 28.**

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### J. R. 29

Joint Resolution Requesting the Congress of the United States of America to Provide for the Disposition of Surplus Personal Property to the Territorial Government of Hawaii.

WHEREAS, the Territory of Hawaii presently qualifies for surplus property for education, public health or civil defense purposes as provided in the Federal Property and Administrative Services Act of 1949, as amended; and

WHEREAS, the Territory of Hawaii finds it necessary to acquire surplus personal property essential for the operations or activities of other agencies of the territorial government and its political subdivisions; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation that notwithstanding any provisions of the Federal Property and Administrative Services Act of 1949, as amended, or any other provisions of law, surplus property may be disposed of to the territorial government of Hawaii at the request of the governor of the Territory of Hawaii without reimbursement or transfer of funds when such surplus personal property is found by the governor to be essential for the operations or activities of the territorial government and its political subdivisions.

SECTION 2. The terms "property" and "surplus property", as used in section 1 hereof, shall have the meaning now or hereafter ascribed to them in the Federal Property and Administrative Services Act of 1949, as amended.

SECTION 3. Certified copies of this Joint Resolution shall be forwarded to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior and to the Delegate to Congress from Hawaii.

SECTION 4. This Joint Resolution shall take effect upon its approval.

(Approved May 29, 1957.) **S.J.R. 51, J.R. 29.**

**J. R. 30**

Joint Resolution Relating to Mining, Establishing a Mineral Resources Advisory Committee and Making Appropriations for Studies of Mineral Deposits in the Territory, Mining Processes, Land Reclamation and Other Matters Relating to the Development, Conservation and Use of Mineral Resources in the Territory, and for the Administration of Other Mining Laws.

WHEREAS, reports indicate the existence of mineral resources, particularly bauxite, in the Territory in quantities sufficient to justify economic exploitation and use of this ore; and

WHEREAS, commercial mining companies have expressed interest in exploring the mineral and bauxite mining potential in the Territory and engaging in mining operations; and

WHEREAS, a continuing study is desirable to develop information (a) on the location, quantity, quality and value of mineral resources particularly of bauxite deposits in the Territory, (b) on problems connected with mining processes and procedures, including strip mining and the disposition of waste materials, and (c) on problems of reclamation, rehabilitation, revegetation and reforestation of mineral lands; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby established a committee to study potential mining operations in the Territory of Hawaii, to be known as the "Mineral Resources Advisory Committee" and hereinafter referred to as the "committee". The committee shall be composed of nine members, as follows: (a) The commissioner of public lands, ex-officio, as chairman, (b) The president of the board of agriculture and forestry, ex-officio, as vice-chairman, and (c) seven members to be appointed by the governor, of whom at least one shall be a resident of each of the counties of Hawaii, Maui and Kauai, respectively. Members of the committee shall receive no compensation but they shall be reimbursed for actual expenses incurred by them in service on the committee, out of funds herein appropriated to the commissioner of public lands.

SECTION 2. The committee shall, in an advisory capacity and in concert with the commissioner of public lands and the University of Hawaii, make a complete study of the problems connected with potential mining operations in the Territory, with particular regard to the possibilities of adverse as well as favorable consequences of bauxite mining operations.

SECTION 3. There is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, the sum of \$50,000 to be expended by the University of Hawaii for the study, investigation, research and report on: (a) problems of reclamation, rehabilitation, revegetation and reforestation of mineral lands, of lands believed to contain mineral resources and of lands adjacent thereto in the Territory, and on problems which may arise upon the development and use of mineral resources by strip mining, particularly of lands known or believed to contain bauxite; and (b) the methods and means of con-

serving the land and other natural resources of the Territory in the event of such development and use. Such funds may be expended by the university in the same manner as funds appropriated to it under the general appropriations act.

SECTION 4. There is hereby appropriated out of the general revenues of the Territory, not otherwise appropriated, the sum of \$100,000 to be expended by the commissioner of public lands of the Territory for study and investigation of: (a) the mineral resources in the Territory, particularly bauxite deposits, the location, quantity, quality, value and other characteristics of mineral resources, mining processes, problems of developing publicly owned deposits, problems of reclamation, rehabilitation, revegetation, and reforestation of lands both publicly and privately owned, mined by strip mining, and such other matters as may be related to the development, conservation and use of mineral resources in the Territory; and (b) the need, if any, for legislation for submittal to the Thirtieth Legislature as may be appropriate or required to enable the orderly utilization of such mineral resources and the orderly development of a mining industry within the Territory, and if such legislation is deemed necessary, the preparation of such legislation; and (c) for such other purposes as will permit the more effective administration of the mining laws of the Territory. Such funds may be expended for such expert, scientific, technical, legal, temporary, intermittent and clerical assistance as may be deemed necessary or desirable by the commissioner of public lands. Expert, scientific, technical, legal, temporary and intermittent assistants may be engaged without regard to the requirements of chapters 3 and 4 and section 5-1 of the Revised Laws of Hawaii 1955. Such funds may also be expended for the administration of laws regulating strip mining in addition to such funds, if any, specifically appropriated for such purposes. Disbursements shall be made upon warrants issued by the auditor of the Territory based upon vouchers approved by the commissioner of public lands.

SECTION 5. The committee, the University of Hawaii and commissioner of public lands are requested to work in concert with each other with a view of avoiding duplication of effort and achieving maximum results. The commissioner of public lands is requested to arrange for the services of personnel from the federal government, particularly the United States Geological Survey and the United States Bureau of Mines, to assist in the study. The funds hereby appropriated may also be expended for contracts for research projects, travel expenses, purchase of books, materials and supplies and such other purposes as may be deemed necessary and desirable to carry out the purposes of this Joint Resolution.

SECTION 6. Within thirty days after the general election electing members of the Thirtieth Legislature, the committee is requested to report its findings to the membership of the Thirtieth Legislature and to the Governor. The committee shall cease to exist upon the adjournment sine die of the Thirtieth Legislature.

SECTION 7. This Joint Resolution shall take effect upon its approval.

(Approved May 31, 1957.) H.J.R. 33, J.R. 30.



**J. R. 31**

Joint Resolution Authorizing the Transfer of Senile and Tubercular Patients From the Territorial Hospital to Other Hospitals Upon a Space Available Basis, and Making Payments Therefor.

WHEREAS, the Territorial Hospital at Kaneohe, Oahu, is seriously overcrowded; and

WHEREAS, said overcrowding is due in large measure to the large number of senile and tubercular patients no longer in need of regular psychiatric treatment; and

WHEREAS, the necessity for providing care for such senile and tubercular patients results in a decrease in medical and nursing services available to the patients who can respond to active treatment; and

WHEREAS, the American Psychiatric Association may withdraw its accreditation of the territorial hospital unless said overcrowding and understaffing is remedied; and

WHEREAS, the loss of such accreditation would seriously affect the standing of the territorial hospital and would, in effect, reduce it to the level of a second class hospital, now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The governor and the director of institutions are authorized to negotiate with the governing bodies of hospitals which derive more than 50 per cent of their revenues from the general funds of the Territory, with a view to making vacant wards or buildings at such hospitals available for the accommodation of senile and tubercular patients who are no longer in need of regular psychiatric treatment. Upon consummation of negotiations and after consent by such hospitals to transfers of such patients is obtained, the director, with the approval of the governor, is authorized to make such transfers.

SECTION 2. The director of institutions is hereby authorized to make such reasonable payments in respect of such patients to said hospitals as have been agreed upon as a result of such negotiations.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved May 31, 1957.) **S.J.R. 84, J.R. 31.**

## J. R. 32

Joint Resolution Relating to the Hawaii Aeronautics Commission, Authorizing the Issuance of \$14,000,000 in Aviation Revenue Bonds, and Requesting the Congress of the United States to Enact Legislation to Approve and Ratify Such Authorization.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 137 of the Revised Laws of Hawaii 1955 is hereby amended by adding a new part thereto to be numbered Part V, and to read as follows:

**"PART V. AVIATION REVENUE BONDS.**

**Sec. 137-94. Bond issue authorized.** In accordance with the authorization contained in Public Law ....., Eighty-fifth Congress, first session, there shall be issued and sold aviation revenue bonds of the Territory in an amount not to exceed the sum of \$14,000,000. Whenever used hereinafter in this part, the term 'aviation revenue bonds' means the bonds thus authorized by the Congress of the United States and issued under the provisions of this part.

**Sec. 137-95. Resolutions of issuance.** The issuance, sale and retirement of aviation revenue bonds shall be under the general control and supervision of the Hawaii Aeronautics Commission, hereinafter referred to as the 'commission', and bonds shall be issued and sold from time to time at such times and in such amounts as the commission may determine. Aviation revenue bonds shall be issued in accordance with a resolution or resolutions adopted by a majority vote of the commission directing the issuance thereof. Any such resolution or resolutions shall take effect immediately upon the filing thereof with the treasurer of the Territory. Whenever used in other sections of this part, the term 'resolution of issuance' shall mean such resolution or resolutions adopted by the commission pursuant to this section.

**Sec. 137-96. Taxes and revenues pledged.** (a) Aviation revenue bonds shall be payable from the proceeds of aviation fuel taxes and all revenues of the commission, including rents, fees and other charges. As used in this part, the term 'aviation fuel taxes' shall mean all taxes now or hereafter imposed by the Territory of Hawaii on any and all substances of whatever chemical composition and whatever physical state, whether gaseous, liquid or solid or any combination of such substances, now or hereafter used or to be used for the propulsion of aircraft. The legislature of the Territory of Hawaii hereby pledges itself to keep the proceeds of aviation fuel taxes segregated from the proceeds of all other taxes so that the proceeds of aviation fuel taxes shall not be commingled with the proceeds of any other taxes, so long as any aviation revenue bonds are issued and outstanding.

To the extent required by any resolution of issuance, all taxes set aside in the territorial airport fund as required by section 129-11, Revised Laws of Hawaii 1955, and all moneys paid into the

airport revenue fund as required by section 15-10, Revised Laws of Hawaii 1955, are hereby irrevocably pledged to the payment of any aviation revenue bonds issued and of the interest thereon. This pledge shall take effect upon the first date of issuance of any aviation revenue bonds, and so long as any such bonds are outstanding, shall continue to apply to the territorial airport fund and the airport revenue fund or such other fund or funds as may be constituted for the deposit of aviation fuel taxes and moneys received by the commission from rents, fees and other charges. The principal of aviation revenue bonds and the interest thereon and any reserve or sinking funds created under the resolution shall constitute a paramount charge on the territorial airport fund and the airport revenue fund. Such resolution of issuance may also provide for the allocation of surplus revenues to the payment of maintenance and operation charges, repairs, additions, betterments and improvements, or any other lawful purpose of the Commission. The legislature of the Territory of Hawaii pledges itself to continue to impose aviation fuel taxes in amounts at least sufficient to provide, as the resolution of issuance may require, for the payment of the principal of aviation revenue bonds and the interest thereon, as such principal and interest become due, and for such reserve funds and sinking funds as may be provided in such resolution.

(b) A resolution of issuance shall provide for the establishment of such interest funds, bond reserve funds, sinking funds and other funds as the commission may determine to be necessary or appropriate to provide for the payment, when due, of the principal of aviation revenue bonds and of the interest thereon. From the territorial airport fund and the airport revenue fund, there shall be paid or transferred to such funds such amounts, within the limits hereinafter stated, as are required by the resolutions of issuance. With respect to any serial bonds issued, a resolution of issuance may require that there be paid or transferred to such funds each year any amount therein designated not exceeding an amount sufficient to increase the balances of such funds to a total equal to the amount required for the payment of the principal of such serial bonds authorized by such resolution and then outstanding, and the interest thereon, which will become payable in the current year and in the next two succeeding years. With respect to any term bonds issued, a resolution of issuance may require that there be paid or transferred to such funds each year any amount therein designated not exceeding the sum of (1) the interest on such term bonds then outstanding which will become payable in the current year and in the next succeeding calendar year; and (2) 125 per cent of the quotient obtained by dividing the aggregate principal amount of all such term bonds authorized by such resolution by the number of years of the term thereof. Any such resolution may, however, provide with respect to either serial bonds or term bonds that the commission shall set aside or transfer to such funds as may be designated in the resolution not more than two times the annual interest, principal, sinking fund

and reserve fund requirements of the bonds authorized to be issued pursuant to such resolution and that any excess over the amount of annual debt service requirements shall be applied to the redemption of the bonds or to provide for any lawful purpose of the commission as may be permitted by the resolution of issuance. Nevertheless, no such resolution of issuance shall require that any amounts be paid or set aside at any time after there have been set aside amounts sufficient to pay the aggregate principal amount of all bonds outstanding and the total amount of interest on all such bonds that is or will become payable.

**Sec. 137-97. Bonds not a general obligation of the Territory.** Each aviation revenue bond shall distinctly state that it is not a general obligation of the Territory of Hawaii, but is payable in the manner provided in this part and in the resolution of issuance, from the proceeds of the territorial airport fund and the airport revenue fund. No holder of any aviation revenue bonds shall ever have the right to compel any exercise of the taxing power of the Territory to pay either the principal of aviation revenue bonds or the interest thereon, except with respect to aviation fuel taxes.

**Sec. 137-98. Form and terms of bonds.** Aviation revenue bonds shall bear interest at such rate or rates not exceeding 6 per cent per annum, payable semiannually, may be term or serial bonds, may be callable at the option of the commission, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding 30 years from their respective dates, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as the resolution of issuance may provide, subject to the provisions of this part. A resolution of issuance may also provide for the refunding of any bonds issued thereunder and for the issuance of refunding bonds subject to the provisions of this part except that refunding bonds may mature within 30 years from the date of such bonds or any series thereof.

**Sec. 137-99. Sale of bonds.** Aviation revenue bonds may be sold at private sale to the United States, or any agency, instrumentality or corporation thereof, or to the employees' retirement system of the Territory of Hawaii, or to any political subdivision of the Territory. Unless so sold at private sale, the bonds shall be sold at public sale after notice of such sale published once, at least five days prior to such sale, in a newspaper circulating in the Territory and in a financial newspaper published in any of the cities of New York, Chicago or San Francisco.

**Sec. 137-100. Negotiability of bonds.** Aviation revenue bonds shall be fully negotiable within the meaning of and for all the purposes of chapter 197, Revised Laws of Hawaii 1955, the negotiable instruments law.

**Sec. 137-101. Deposit and use of proceeds.** The proceeds from the sale of aviation revenue bonds shall be deposited with the

treasurer of the Territory in such funds as the resolution may direct, and shall be expended by the commission for the following purposes: (1) to pay interest due upon any such bonds during the first year after their date of issuance, if so authorized by the resolution of issuance; (2) for the construction, operation and maintenance of airports and air navigation facilities, including acquisition of real property and interests therein; (3) for expenses incurred for engraving, printing, advertising, legal services, financial consultant's services or otherwise, with respect to the issuance of aviation revenue bonds; (4) to pay the principal and interest of any general obligation bonds of the Territory of Hawaii chargeable to or payable by the commission, but only to the extent permitted in the resolution of issuance.

**Sec. 137-102. Hawaii aeronautics commission.** The legislature agrees to continue in existence the Hawaii aeronautics commission, or an officer or agency succeeding to the powers and duties thereof, so long as any aviation revenue bonds are outstanding. The legislature hereby further agrees that such officer or agency shall retain the powers and duties set forth in this part so long as any of such bonds are outstanding.

**Sec. 137-103. Treasurer's duties.** It shall be the duty of the treasurer of the Territory, when requested by the Hawaii aeronautics commission, to render full and complete assistance to the commission in the preparation and sale of aviation revenue bonds. The treasurer shall be the fiscal agent of the Territory for the payment of all principal and interest, and for the transfer of bonds. Provisions for other fiscal agents and transfer agents, and for their powers and duties, may be made in the resolution of issuance.

The treasurer shall cause to be set up in the treasury of the Territory suitable accounts for the deposit of all funds established pursuant to this part, for the payment of all aviation revenue bonds and the interest thereon, for all other payments provided or required pursuant to this part, and for the holding of all reserves or other funds authorized to be created under this part.

**Sec. 137-104. Investment of funds.** The treasurer, with the approval of the commission, is authorized and empowered to invest any moneys held in any fund established by any resolution of issuance pursuant to this part, which in the commission's judgment are in excess of the amounts necessary for the meeting of immediate requirements, in bonds or other obligations of the United States, or, subject to any limitations contained in the resolution of issuance, in bonds of the Territory of Hawaii, or of any political or municipal corporation or subdivision of the Territory. Income derived from such investments shall be added to and become a part of the fund out of which the investment was made, and the expenses of purchase, safekeeping, sale and redemption and all other expenses incident to such investments shall be charged to the fund out of which the investment was made.

**Sec. 137-105. Lost and destroyed bonds and coupons.** The

provisions of sections 137-20 to 137-23, Revised Laws of Hawaii 1955, relating to destroyed or defaced bonds, and to lost, destroyed or stolen coupons, to the extent that they are applicable, shall apply to aviation revenue bonds.

**Sec. 137-106. Bonds exempt from taxation.** Aviation revenue bonds and the interest thereon shall be exempt from all territorial, county and municipal taxes except inheritance, transfer and estate taxes.

**Sec. 137-107. Bonds legal investments.** All public officers and bodies and political subdivisions of the Territory, all banks, savings banks, and savings institutions, insurance companies, including building and loan or savings and loan associations, all trust companies, all executors, administrators, guardians, trustees, and all other persons and fiduciaries in the Territory who are regulated by law as to the character of their investments, may legally invest funds within their control and available for investment in aviation revenue bonds, the purpose of this section being to authorize all persons, firms, corporations, associations, political subdivisions, bodies and officers, public or private to use any funds owned or controlled by them, including (without prejudice to the generality of the foregoing language) sinking, insurance, investment, retirement, compensation and trust funds, and funds held on deposit, for the purchase of any aviation revenue bonds."

**SECTION 2.** The Congress of the United States is hereby respectfully requested (a) to amend section 1 of this Joint Resolution by inserting in "Sec. 137-94" therein set forth, a reference to the public law number as may be assigned to any bill to approve and ratify the provisions of section 1; and (b) to approve and ratify the provisions of section 1 of this Joint Resolution as so amended, by the adoption of a bill in substantially the following form:

"A Bill to Amend Joint Resolution [32] of the Session Laws of Hawaii 1957, Relating to the Hawaii Aeronautics Commission, Authorizing the Issuance of \$14,000,000 in Aviation Revenue Bonds, and Approving and Ratifying Said Joint Resolution [32] As So Amended.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

[SEC. 1.] That Joint Resolution [32] of the Session Laws of Hawaii 1957, is hereby amended to the extent of inserting in **Sec. 137-94** therein set forth the public law number as may be assigned to this bill upon its enactment.

**SEC. 2.** The Territory of Hawaii, any provision of the Hawaiian Organic Act or any other Act of Congress to the contrary notwithstanding, is authorized and empowered to issue aviation revenue bonds in a sum not to exceed \$14,000,000 payable from funds derived from aviation fuel taxes and all other revenues of the Hawaii Aeronautics Commission, including rents, fees and other charges for the purpose of providing for the construction, operation and maintenance of airports and air navigation facilities,

including acquisition of real property and interests therein, in the Territory, and for expenses incurred for engraving, printing, advertising, legal services, financial consultant's services or otherwise, with respect to the issuance of such aviation revenue bonds. The issuance of such aviation revenue bonds shall not constitute the incurrence of an indebtedness within the meaning of the Hawaiian Organic Act, and shall not require the approval of the President of the United States.

SEC. 3. All aviation revenue bonds issued under authority of section 2 above shall be issued pursuant to legislation enacted by the legislature of the Territory which shall provide (1) that, so long as any of the bonds are outstanding, aviation fuel taxes shall be levied and collected in amounts at least sufficient to provide for the payment of the principal of the bonds and the interest thereon, as such principal and interest become due, and for such reserve funds and sinking funds as may be provided therefor; (2) that the Hawaii Aeronautics Commission or any officer or agency succeeding to its powers and duties, shall have the power to issue and sell the bonds and to expend the proceeds thereof and provide for the repayment thereof, in accordance with standards and pursuant to provisions which shall be set forth in such legislation; and (3) that the Hawaii Aeronautics Commission, or any officer or agency succeeding to the powers and duties of that commission shall be continued in existence and shall retain the powers and duties set forth in such legislation, so long as any of the bonds are outstanding.

SEC. 4. Nothing in this Act shall be deemed to prevent the application of federal funds to aid in the retirement of said bonds, to the extent now or hereafter permitted by the Acts of Congress relating to the use of such funds.

SEC. 5. As used in this Act, the term 'aviation fuel taxes' shall have the same meaning as defined and imposed by the laws of the Territory of Hawaii.

SEC. 6. Joint Resolution [32] of the Session Laws of Hawaii 1957, as amended by section 1 above, is hereby approved and ratified."

SECTION 3. Notwithstanding any of the provisions of the foregoing sections 1 and 2 of this Joint Resolution, the Hawaii Aeronautics Commission, in its acquisition of privately owned land, shall be limited to 69 acres, **provided** that it may acquire a larger area if the total cost of the lands acquired does not exceed \$4,000,000. This restriction shall not in any way affect or interfere with the acquisition by the Aeronautics Commission of additional lands owned by or under the control of the federal government.

SECTION 4. Certified copies of this Joint Resolution shall be transmitted to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the Secretary of the Interior, and the Delegate to Congress from Hawaii.

SECTION 5. This Joint Resolution shall take effect upon its approval.

(Approved June 1, 1957.) H.J.R. 57, J.R. 32.

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J. R. 33

Joint Resolution Requesting the Congress of the United States to Expressly Extend to the Territory of Hawaii the Provisions of Title IV of the Agricultural Act of 1956, Public Law 540, Relating to Forestry Provisions.

WHEREAS, the 84th Congress of the United States has enacted into law the "Agricultural Act of 1956" as Public Law 540; and

WHEREAS, under Title IV—Forestry Provisions—of this Act, the Congress has found and declared that building up and maintaining a level of timber growing stocks adequate to meet the Nation's domestic need for a dependable future supply of industrial wood is essential to the public welfare and that assisting in improving and protecting such lands would also increase public benefits from other values associated with forest cover; and

WHEREAS, the Congress has also authorized the Secretary of Agriculture to assist the States in undertaking needed programs of tree planting, which assistance may include giving of advice and technical assistance and furnishing financial contributions not to exceed the amount expended by the State for the same purpose during the same fiscal year; and

WHEREAS, the provisions of this Title IV of the Agricultural Act of 1956 as written cannot be extended to the Territory of Hawaii; and

WHEREAS, the Territory of Hawaii contributes annually to the Federal Treasury as much or more monies than twelve of the States; and

WHEREAS, the Territory of Hawaii is in urgent need of technical and fiscal assistance in its reforestation program for purposes of developing commercial timber and related forest products in order to bolster its economic development and put to its highest and best use many thousands of acres of land; now, therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The 85th Congress of the United States is hereby respectfully requested to enact into law the expressed extension of Title IV of the Agricultural Act of 1956, Public Law 540, to the Territory of Hawaii.

SECTION 2. Duly authenticated copies of this Joint Resolution shall be forwarded to the President of the United States, to the President of the Senate, and Speaker of the House of Representatives of the Congress of the United States, to the Secretary of Agriculture of the United States and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved June 1, 1957.) H.J.R. 72, J.R. 33.



J. R. 34

Joint Resolution Providing Emergency Funds in Connection With the Tidal Wave Disaster on the Island of Kauai.

WHEREAS, some of the residents of the district of Hanalei, island and county of Kauai, have lost their homes and possessions as a result of the tremendous tidal wave which struck the island on March 9th, 1957; and

WHEREAS, the Red Cross, Civil Defense, National Guard and county and territorial agencies have rapidly mobilized to render vitally needed aid and assistance, but further strenuous efforts will be required for the welfare of Hanalei residents; and

WHEREAS, it is therefore necessary that other emergency measures be taken and that adequate emergency funds be provided for the protection of the lives and for the health and the safety of the people of Kauai; and

WHEREAS, such emergency funds are also required for the construction of temporary transportation routes and other facilities, all of which needs can only be determined as the extent of the disaster is measured and ascertained; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby appropriated from the general funds of the Territory not otherwise appropriated, the sum of \$100,000.00 to be expended under the direction and control of the chairman and board of supervisors of the county of Kauai, for the purpose of protecting the people and properties of the county who and which have been affected by the disastrous tidal wave in the district of Hanalei occurring on March 9, 1957; the sums hereby appropriated shall be expended upon warrants drawn by the territorial auditor, based upon vouchers approved by the chairman and board of supervisors of the county of Kauai; **provided however**, that in the use of the funds hereby appropriated, the chairman and the board of supervisors of Kauai shall not duplicate the assistance or services given or to be given by the Red Cross, Civil Defense, National Guard, and other civic and governmental agencies.

SECTION 2. The foregoing appropriation, or so much thereof as may be necessary, shall be allocated or allotted to the following projects or such other projects as shall fall within the purpose of this Joint Resolution as set forth in section 1:

1. In connection with homes to be relocated in the Kalihiwai area :	
Construction of roads and land development	\$10,000.00
Installation of new water system	10,000.00
Sub-Total	\$20,000.00
2. In connection with homes to be relocated in the Wainiha area :	
Construction of roads and land development	50,800.00
Installation of new water system	22,000.00
Sub-Total	\$72,800.00

3. In connection with homes to be relocated in the Haena area:	
Construction of roads and land development	6,000.00
Installation of new water system	1,200.00
Sub-Total	\$ 7,200.00
GRAND TOTAL 3 PROJECTS	\$100,000.00

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved June 1, 1957.) S.J.R. 32, J.R. 34.

### J. R. 35

Joint Resolution Requesting the Congress of the United States to Appropriate Funds for the Immediate Establishment and Operation of a Forest Research Center in the Territory of Hawaii.

WHEREAS, the fast growing population and even faster economic development of the Territory of Hawaii is bringing increased pressures upon the forest areas for water, forage, timber, game recreation and homesites; and

WHEREAS, the Territory of Hawaii recognizes the urgent need for a forest research program to provide information to solve these forest, range, and watershed problems in Hawaii; and

WHEREAS, the Secretary of Agriculture of the United States is authorized to conduct such investigation, experiments, and tests as he may deem necessary to determine, demonstrate, and promulgate the best methods of reforestation and of growing, managing, and utilizing timber, forage, and other forest products, of maintaining favorable conditions of water flow and their prevention of erosion, of protecting timber and other forest growth from fire, insects, disease, and other harmful agencies, of obtaining the fullest and most effective use of forest lands, and to determine and promulgate the economic considerations which should underlie the establishment of sound policies for the management of forest land and the utilization of forest products in Hawaii; and

WHEREAS, the U. S. Forest Service has established nine (9) regional forest experiment stations in the continental United States with several research centers under their jurisdiction including a research center in Puerto Rico, and a research center in Alaska; and

WHEREAS, funds for the establishment of such forest research center in Hawaii have not been requested in the Secretary of Agriculture's 1957-1958 fiscal year's budgetary request; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to appropriate necessary funds for the immediate establishment of a Forest Research Center in the Territory of Hawaii to be administered by the United States Forest Service.

SECTION 2. Duly authenticated copies of this Joint Resolution shall be forwarded to the President of the United States, to the President of the Senate and Speaker of the House of Representatives of the Congress of the United States, to the Secretary of Agriculture of the United States and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved June 1, 1957.) H.J.R. 32, J.R. 35.

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### J. R. 36

Joint Resolution Requesting the Hawaii Aeronautics Commission to Withhold the Actual Construction of its Proposed Expansion Project of the Honolulu International Airport.

WHEREAS, the Hawaii Aeronautics Commission is about to embark upon its project for the expansion of the Honolulu International Airport; and

WHEREAS, the immediate commencement of that project would result in the acceleration of displacement of residents in portions of the Damon Tract area; and

WHEREAS, a delay in the construction of the project of airport expansion would allow Damon Tract residents to be relocated without difficulty; and

WHEREAS, a considerable amount of construction is scheduled to go into operation pursuant to section 108 of the "Housing Act of 1956", for the purpose of providing homes for families displaced by any governmental activity and would enable residents of the Damon Tract area to be relocated without undue hardship; and

WHEREAS, homes constructed under said program would be within the means of a large number of Damon Tract residents; and

WHEREAS, numerous families have initiated action to take advantage of the opportunity presented by the construction program under the "Housing Act of 1956", now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Hawaii Aeronautics Commission is requested not to begin actual construction of its Honolulu Airport expansion project into the Damon Tract area now occupied by residents thereof until February 1, 1958 and the commission shall allow Damon Tract residents to remain on their premises until January 31, 1958.

SECTION 2. This Joint Resolution shall take effect upon its approval.

(Approved June 1, 1957.) H.J.R. 69, J.R. 36.

## J. R. 37

Joint Resolution Requesting the Congress of the United States to Enact Legislation to Permit the Sale, Leasing or Exchange of Public Lands Without Compliance With Certain Requirements of the Hawaiian Organic Act or of the Land Laws of Hawaii.

WHEREAS, major improvements instituted by the Territory of Hawaii, its political subdivisions, Federal, Territorial or County Agencies, are causing the disposition or displacement of many families from their homes;

WHEREAS, natural disasters such as tidal waves, earthquakes and volcanic eruptions also cause similar dispossession or displacements;

WHEREAS, land is a limited and valuable commodity in the Territory and is generally beyond the reach of most of the dispossessed or displaced families; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby requested to enact a bill substantially as follows:

“A Bill Amending the Hawaiian Organic Act and Approving Amendments of the Hawaiian Land Laws in Regard to Sales, Leasing and Exchange of Public Lands.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

[SEC. 1.] That section 73 of the Hawaiian Organic Act is hereby amended as follows:

(a) By adding a new subsection ‘73 (s)’ immediately following subsection 73 (r) to read as follows:

‘SEC. 73 (s). Other sections of this Act to the contrary notwithstanding, the commissioner of public lands, with the approval of two-thirds of the board of public lands and of the governor may, without the benefit of public auction, sell or lease for a term not to exceed sixty-five (65) years, or exchange without regard to the \$5,000.00 limitation contained in section 73 (1) of this Act, any residential lot to dispossessed or displaced persons. For the purposes herein, dispossessed or displaced persons shall include only those persons who, by reason of major improvements instituted by the Territory of Hawaii, its political subdivisions, or any Federal, Territorial or County Agency, or by any natural disaster such as tidal waves, earthquakes or volcanic eruptions, are dispossessed or displaced from their principal place of residence, and who have resided at such principal place of residence for a period of at least two years immediately prior to the date of taking or to the date of disaster. Date of taking shall mean, in a voluntary sale, the date of execution of the document of conveyance, and in a condemnation proceeding, the effective date of the order of possession or of the entry of final order, of condemnation, whichever is the earlier in time.’

SEC. 2. **Section 73 (1)** of the Hawaiian Organic Act is hereby amended as follows:

(a) By deleting the period after the word 'made' at the end of the first sentence and adding thereafter 'except as otherwise provided in section 73 (s) of this Act.'

(b) By deleting the period after the word 'uses' at the end of the last sentence and adding thereafter 'except as otherwise provided in section 73 (s) of this Act.'

SEC. 3. The amendments of **Sections 99-40, 99-49 and 99-53** of the Revised Laws of Hawaii 1955, made by the Twenty-Ninth Legislature are hereby approved.

SEC. 4. This Act shall take effect upon its approval."

SECTION 2. (a) **Section 99-40** is hereby amended by adding after the first paragraph the following paragraph:

"Other sections in the Revised Laws of Hawaii to the contrary notwithstanding, the commissioner of public lands, with the approval of two-thirds of the board of public lands and of the governor may, without the benefit of public auction sell or lease for a term not to exceed sixty-five (65) years, or exchange without regard to the \$5,000.00 limitation contained in section 73 (1) of the Hawaiian Organic Act, any residential lot to persons dispossessed or displaced from their homes by major improvements instituted by the Territory of Hawaii, its political subdivisions or Federal or Territorial or County Agencies, or by natural disasters such as tidal waves, earthquakes or volcanic eruptions. For the purposes herein, dispossessed or displaced persons shall include only those persons who, by reason of major improvements instituted by the Territory of Hawaii, its political subdivisions, or any Federal, Territorial or County Agency, or by any natural disaster such as tidal waves, earthquakes or volcanic eruptions, are dispossessed or displaced from their principal place of residence, and who have resided at such principal place of residence for a period of at least two years immediately prior to the date of taking or to the date of disaster. Date of taking shall mean, in a voluntary sale, the date of execution of the document of conveyance, and in a condemnation proceeding, the effective date of the order of possession or of the entry of final order of condemnation, whichever is the earlier in time."

(b) This section shall take effect upon the approval by the Congress of the United States of America of the amendment made by this section. The Congress of the United States is hereby respectfully requested to approve this amendment.

SECTION 3. (a) **Section 99-49** of the Revised Laws of Hawaii 1955 is hereby amended by inserting after the clause "or to any person who has legally declared his intention to be a citizen," contained in the second sentence the clause "or to any dispossessed or displaced person covered by section 99-40 of the Revised Laws of Hawaii 1955, which dispossessed or displaced person may be an alien."

(b) This section shall take effect upon the approval by the Congress

of the United States of the amendment made by this section. The Congress of the United States is hereby respectfully requested to approve this amendment.

SECTION 4. (a) Section 99-53 is hereby amended by deleting the comma after "99-51" in the first clause of the first sentence and inserting after "99-51" the phrase "and section 99-40,".

(b) This section shall take effect upon the approval by the Congress of the United States of America of the amendment made by this section. The Congress of the United States is hereby respectfully requested to approve this amendment.

SECTION 5. Certified copies of this Resolution, upon its adoption, shall be forwarded to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the Secretary of the Interior and the Delegate to Congress from Hawaii.

SECTION 6. This Joint Resolution shall take effect upon its approval.

(Approved June 3, 1957.) H.J.R. 2, J.R. 37.

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### J. R. 38

Joint Resolution Requesting the Congress of the United States of America to Amend the Hawaiian Organic Act (31 Stat. 141), As Amended, by Removing Certain Restrictions on the Use of Public Lands.

WHEREAS, the Hawaiian Organic Act (31 Stat. 141), as amended, contains restrictions governing the purposes for which public lands may be used by the persons to whom such lands are awarded; and

WHEREAS, notwithstanding amendments from time to time of the Hawaiian Organic Act, such amendments have failed to keep abreast of the economic and social demands of the Territory; and

WHEREAS, the removal of certain restrictions running with the award of public lands would promote the general welfare of the Territory: now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That the Congress of the United States of America be hereby respectfully requested to amend the Hawaiian Organic Act (31 Stat. 141), as amended to permit the commissioner of public lands with the consent of the governor to amend existing patents by removing the restrictions contained in any land patent and deed which have run for ten years or more where strict enforcement of the restrictions would involve practical difficulties or unnecessary hardship and where such removal would be in the public interest and would promote the general welfare of the Territory.

SECTION 2. That certified copies of this Joint Resolution be forwarded to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the

United States, the Secretary of the Interior, and the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved June 4, 1957.) H.J.R. 103, J.R. 38.

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J. R. 39

Joint Resolution Requesting the Congress of the United States to Amend the Hawaiian Organic Act to Provide for the Appointment of the Post-Auditor by the Territorial Legislature.

WHEREAS, pursuant to the request contained in Joint Resolution 12 of the Twenty-eighth Legislature of the Territory of Hawaii (1955), the Congress of the United States did enact Public Law 906 (Eighty-fourth Congress, second session, approved August 1, 1956) to create the position of post-auditor in the territorial government; and

WHEREAS, the Congress, while generally heeding the request of the legislature, in enacting Public Law 906, made a significant amendment to the post-auditor law as proposed by the territorial legislature, namely, that of substituting the "governor" instead of the "majority of the legislature" as the authority to appoint the post-auditor; and

WHEREAS, such an amendment to the bill as originally proposed by the territorial legislature in large measure nullifies the purposes for which such a position was created and contradicts a principle of public administration which views the primary function of post-audit as an independent check upon the executive branch of government; and

WHEREAS, such independent check upon the executive is especially desirable to secure democratic public responsibility in a jurisdiction wherein the executive is not popularly elected, but appointed; and

WHEREAS, the reason for the Congressional amendment as stated in Senate Report No. 2660, July 19, 1956—"to make the measure conform more closely to the procedure prescribed in existing law covering similar (state) circumstances"—does not take into consideration the condition peculiar to the Territory of an appointed governor, nor of the trend noted by the Council of State Governments "to separate the post-audit function from administrative control and (to) place it under the legislative branch"; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to amend **section 77A** of the Hawaiian Organic Act, as enacted by Public Law 906 of the Eighty-fourth Congress, by amending the words "by the Governor by and with the advice and consent of the Senate" in the first sentence thereof to read, "by a majority vote of each house of the legislature in joint session."

SECTION 2. Duly certified copies of this Joint Resolution shall be transmitted to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives and to the

chairmen of the Senate and House Committees on Interior and Insular Affairs of the Congress of the United States, to the Secretary of the Interior, and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved June 4, 1957.) H.J.R. 50, J.R. 39.

## J. R. 40

Joint Resolution Relating to the Hawaiian Organic Act, and Requesting the Congress of the United States to Amend Section 73 (q) Thereof, and to Validate Transactions Which Conform to the Amended Law.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is respectfully requested to amend section 73 (q) of the Hawaiian Organic Act by enacting a bill substantially in the following form:

"A Bill Relating to the Hawaiian Organic Act and Amending Section 73 (q) Thereof, and Validating Transactions Which Conform to the Amended Law.

*Be it Enacted by the Senate and the House of Representatives of the United States of America in Congress assembled:*

[SEC. 1.] That section 73 (q) of the Hawaiian Organic Act (Act of April 30, 1900, 31 Stat. 141) is amended as follows:

(a) By inserting in the first sentence, after the words 'all sales and other dispositions of such land shall' a comma and the following:

'except as otherwise provided by the Congress,'

(b) By inserting therein, after the first paragraph, the following:

'Within the meaning of this section the management of lands set aside for public purposes may, if within the scope of the authority conferred by the legislature, include the making of leases by the agency (a department, bureau, commission, board or officer of the Territory or any political subdivision thereof) to which the land has been set aside, for reasonable terms for carrying out the purposes for which the land has been set aside, such as for occupancy of land at an airport for facilities of carriers or to serve the traveling public. No such lease shall continue in effect in the event of withdrawal of the land by the governor unless at the time of making of the lease he shall have approved the same, or in any event for a longer term than sixty-five years.'

SEC. 2. That all transactions which would have been valid if made under section 73 (q) of the Hawaiian Organic Act as amended by this Act, are hereby validated and given the same status as if made after the approval of this Act. The governor hereby is authorized to approve leases made prior to the approval



of this Act to the same effect as if approved at the time of their making. Nothing herein shall be deemed an expression as to the validity or invalidity of any prior transactions."

**SECTION 2.** Certified copies of this Joint Resolution shall be transmitted to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the Secretary of the Interior and the Delegate to Congress from Hawaii.

**SECTION 3.** This Joint Resolution shall take effect upon approval.

(Approved June 4, 1957.) **S.J.R. 55, J.R. 40.**

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### J. R. 41

Joint Resolution Requesting the Congress of the United States to Enact Legislation to Permit the Leasing of Public Lands For Mining Purposes for Sixty-Five (65) Years.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1.** The Congress of the United States is hereby requested to enact a bill substantially as follows:

"A Bill Amending the Hawaiian Organic Act (31 Stat. 141), as Amended, and Approving Amendments of the Hawaiian Land Laws in Respect of Leases.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

**SEC. 1.** That **Section 73** of the Hawaiian Organic Act (48 U.S.C. 663-677b), as amended, is hereby further amended as follows:

(a) By adding a new sub-section '(s)' immediately following sub-section (r), to read as follows:

'(s). Leases may be made by the commissioner of public lands, with the approval of two-thirds of the members of the board of public lands, for mining purposes for terms up to but not in excess of sixty-five (65) years. The land, or any part thereof so leased, may at any time during the term of the lease be withdrawn from the operation thereof for homestead or public purposes, in which case the rent reserved shall be reduced in proportion to the value of the part so withdrawn. Every such lease shall contain a provision to that effect; provided, that the commissioner may, with the approval of the governor and at least two-thirds of the members of the board of public lands, omit such withdrawal provision from, or limit the same in, the lease of any lands whenever he deems it advantageous to the Territory of Hawaii. Land so leased shall not be subject to such right of withdrawal or shall be subject only to a right of withdrawal as limited in the lease.'

SEC. 2. **Section 73 (d)** of the Hawaiian Organic Act (48 U.S.C. 665) is hereby amended as follows:

(a) By replacing the period at the end of the first sentence with a comma, and adding thereafter 'provided, however, mining leases affecting such agricultural lands or such undeveloped arid public land may be made for terms up to but not in excess of sixty-five (65) years as provided in Section 73 (s) of this Act.'

SEC. 3. **Section 73 (g)** of the Hawaiian Organic Act is hereby amended by replacing the period at the end thereof with a comma, and by adding thereto the following: 'nor to the execution of a lease or license to mine minerals on any homestead land to which the holder of such certificate, lease or agreement has received a fee simple title to any such homestead.'

SEC. 4. **Section 99-78** of the Revised Laws of Hawaii 1955 is hereby amended by replacing the period at the end thereof by a comma, and by adding thereto the following: 'nor to the execution of a lease or license to mine minerals on any homestead land to which the holder of such certificate, lease or agreement has received a fee simple title to any such homestead.'

SEC. 5. The amendment of **Section 99-51** of the Revised Laws of Hawaii 1955, made by the Twenty-Ninth Legislature of the Territory of Hawaii, is hereby approved.

SEC. 6. This Act shall take effect upon its approval."

SECTION 2. (a) **Section 99-51** of the Revised Laws of Hawaii 1955 is amended by replacing the period at the end of the first sentence with a comma, and adding thereafter "provided, however, mining leases affecting such agricultural lands or such undeveloped arid public land may be made for terms up to but not in excess of sixty-five (65) years as provided in Section 73 (s) of the Hawaiian Organic Act."

(b) This section shall take effect upon the approval by the Congress of the United States of the amendment made by this section. The Congress of the United States is hereby respectfully requested to approve the amendment.

SECTION 3. Certified copies of this Joint Resolution, upon its adoption, shall be forwarded to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States, the Secretary of the Interior and the Delegate to Congress from Hawaii.

SECTION 4. This Joint Resolution shall take effect upon its approval.

(Approved June 4, 1957.) **H.J.R. 85, J.R. 41.**

**J. R. 42**

Joint Resolution Requesting the Congress of the United States to Permit the Young Women's Christian Association to Purchase a Portion of Fort DeRussy.

WHEREAS, the Young Women's Christian Association of Honolulu is the owner in fee of a narrow strip of land fronting on the sea and lying within the Waikiki area of the city and county of Honolulu; and

WHEREAS, the narrowness of the width of such land, being but fifty feet wide at its greatest width, limits the uses which may be made of such land; and

WHEREAS, the lands adjoining such parcel on one side are fully developed and have permanent improvements placed thereon and cannot therefore be acquired, but the lands adjoining such parcel on its other side are not so developed and improved, the same being a portion of the lands lying within Fort DeRussy and owned by the United States; and

WHEREAS, the Young Women's Christian Association is desirous of purchasing an additional strip of land fifteen feet wide adjoining its boundary, from Kalia Road to the sea; and

WHEREAS, the acquisition of such a fifteen-foot strip from the United States would in no way impair the uses which are now being made thereof, nor interfere with such uses as the United States may wish to make of its remaining lands within Fort DeRussy; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to make available for purchase by the Young Women's Christian Association of Honolulu a strip of land fifteen feet wide along and adjacent to land now owned by the said association, from lands lying within Fort DeRussy, such strip to extend from Kalia Road to the sea.

SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the Secretary of the Interior, and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved June 4, 1957.) S.J.R. 78, J.R. 42.

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**J. R. 43**

Joint Resolution Requesting the Congress of the United States to Amend the Law Relating to the Granting of Land Patents in Fee Simple to Certain Occupiers of Public Lands.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Section 1 of Public Law 620, chapter 824, as enacted

by the 83rd Congress of the United States of America, at the second session, is hereby amended to read as follows:

"A fee simple patent shall be issued to every occupier under a certificate of occupation and to every lessee under a 999-year homestead lease of public lands where such lands have been improved under such certificate or lease or certificate and lease, and have been used as a place of residence by such occupier or lessee for an aggregate continuous period of not less than ten years, upon the payment to the commissioner of public lands of a fair price, disregarding the value of the improvements made by the occupier or lessee, which price shall be determined by three disinterested citizens to be appointed by the governor."

SECTION 2. That certified copies of this Joint Resolution be transmitted to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval by the Congress of the United States.

(Approved June 5, 1957.) H.J.R. 11, J.R. 43.

#### J. R. 44

Joint Resolution Relating to Credit in Employees' Retirement System for Robert O. Graham.

WHEREAS, Robert O. Graham entered civilian employment of the National Guard during September, 1941; and

WHEREAS, he joined the employees' retirement system on April 1, 1942; and

WHEREAS, he was called into active military service on November 30, 1942, and upon honorable discharge from military service on October 4, 1945, returned to civilian employment with the Territory of Hawaii; and

WHEREAS, due to erroneous information furnished him by his superiors he resigned and withdrew his contributions from the employees' retirement system instead of taking military leave and securing credit at territorial expense in the employees' retirement system as others were permitted to do; and

WHEREAS, his employment record shows that he left territorial service to enter military service; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That Robert O. Graham be granted credit in the employees' retirement system for the period November 30, 1942 to October 4, 1945, during which time he was in active military service.

SECTION 2. This Joint Resolution shall take effect upon its approval.

(Approved June 5, 1957.) S.J.R. 26, J.R. 44.

**J. R. 45**

Joint Resolution Relating to Reclaimed Lands and the Reclamation of Submerged Lands, Authorizing and Providing for the Issuance of Revenue Bonds for Reclamation Purposes, and for Advances From Loan Funds Derived From General Obligation Bonds, and Requesting Ratification by Congress.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

**SECTION 1. Submerged and reclaimed lands.** (a) It is the intent and purpose of the legislature that all lands beneath tidal waters which are suitable for reclamation, together with reclaimed lands which formerly were lands beneath tidal waters, be given the status of public lands of Hawaii if and to the extent that they do not now have that status. Insofar as it lies within the power of the legislature to do so, such submerged and reclaimed lands hereby are given that status.

(b) The governor of Hawaii is authorized to determine, after receiving the advice of the commissioner of public lands, the board of harbor commissioners and, if such office is constituted by the Twenty-Ninth Legislature, the director of territorial planning, which areas of lands are suitable for reclamation, and to take all necessary steps to the end that the reclaimed and reclaimable lands be given the status of public lands insofar as they do not now have that status. The term "lands beneath tidal waters which are suitable for reclamation" includes, without prejudice to the generality of the term, the reef areas and other shallow waters and environs which economically can be reclaimed and which are so situated that reclamation thereof would put them to their highest and best use.

(c) In determining which areas are suitable for reclamation and in implementing the objective of the legislature that the same be given the status of public lands, the governor of Hawaii is not required to, and it is not intended that he should, determine prior to such areas attaining the status of public lands, which portions thereof are to be dredged and which to be filled. No work is to be done on lands beneath tidal waters without the consent of the board of harbor commissioners and the secretary of the military department concerned. It is the finding of the legislature that these requirements, together with the control vested in the governor through his power to set aside and withdraw lands by executive order, and the control vested in the commissioner of public lands through his power to determine the terms and provisions of sales and leases, constitute sufficient protection of the public interest in the sea waters for purposes of navigation and recreation. In respect of the public interest in the sea waters for purposes of fishing, it is the finding of the legislature that such interest is subordinate to the objective of attaining the highest economic use of reclaimable lands.

**SECTION 2. Authority of commissioner of public lands to reclaim lands, etc.** (a) The commissioner of public lands, with the approval of the governor, is authorized to initiate projects for the reclamation of lands beneath tidal waters having the status of public lands, which are or come under his control.

(b) The provisions of this Joint Resolution are without prejudice to the power of the commissioner to permit or require such reclamation by others pursuant to the terms and provisions of sales and leases made by him.

**SECTION 3. Initiation and construction of project.** (a) The construction of new land areas pursuant to section 2 (a), together with the means of access thereto, and maintenance, betterment and extensions of the same, shall be initiated by the commissioner of public lands and shall be constructed or made by or under the supervision of the superintendent of public works, in conformity with plans and specifications approved by the commissioner of public lands, for which purposes the commissioner shall make allotments of funds appropriated therefor or derived from revenue bonds or from the advances and transfers hereinafter authorized, for expenditure by the superintendent of public works and for services of the department of public works for which said department has no general fund appropriation.

(b) In carrying out the provisions of this Joint Resolution the commissioner of public lands may use the facilities and services of other departments and agencies of the Territory and the counties, and such departments, agencies and counties are authorized and directed to make available their facilities and services. The commissioner of public lands may compensate such departments and agencies for such services, if they have no appropriation therefor, from the funds designated in subsection (a).

**SECTION 4. Issuance of revenue bonds.** Revenue bonds, as provided for by part III of chapter 137, Revised Laws of Hawaii 1955, may be issued to finance in whole or in part the cost of construction of such new land areas and means of access thereto, the acquisition, by condemnation, purchase or otherwise, of littoral or other private rights, if any, which may be affected by such construction, and of rights of way to the shore and such shore lands as may be necessary to enable such construction, and the costs of maintenance, betterment and extension of such new land areas and means of access thereto. The revenues derived from the lease of such new land areas shall be pledged for the punctual payment of such bonds, and interest thereon, and such revenues are hereby charged with the payment of said principal and interest. Each reclamation project, including a specific new land area or areas and all of the matters relating thereto enumerated in the first sentence of this section, is designated as an "undertaking" within the meaning of said part III, of chapter 137. The commissioner of public lands is the department head charged with the administration of such undertakings.

**SECTION 5. Advances and transfers.** For the purpose of paying the costs of the issuance of bonds authorized by this Joint Resolution and other preliminary expenses, including but not limited to expenses for engineering and surveys, plans and designs and appraisals and the costs of services of other departments and agencies, the commissioner of public lands is authorized to make advances of such sums as may be necessary from, and as are not then otherwise required for use in, the land development revolving fund, which fund shall be reimbursed for said advances upon the issuance of the revenue bonds issued to finance

the reclamation project in connection with which such costs and expenses are incurred. The treasurer of the Territory is also authorized to make temporary transfers to the commissioner of public lands for such purposes in conformity with the provisions of section 137-66 of said part III of chapter 137, Revised Laws of Hawaii 1955.

It further is provided that the governor of the Territory may make advances from loan funds, derived from the issuance of general obligation bonds, for public improvements authorized by sections 3 and 4, and such advances shall be repaid from the proceeds of the revenue bonds when issued, before any other advances are reimbursed therefrom. When reimbursed such loan funds shall be available for expenditure for the public improvements the financing of which by the issuance of general obligation bonds theretofore was authorized.

**SECTION 6. Authorization of revenue bonds.** There are hereby authorized to be issued by the commissioner of public lands, as provided by part III of chapter 137, Revised Laws of Hawaii 1955, revenue bonds in a total amount not exceeding twenty-five million dollars to finance in whole or in part the costs of construction of new land areas under this Joint Resolution, and other costs as provided in section 4 hereof.

**SECTION 7. Ratification by Congress.** The Congress of the United States of America is hereby respectfully requested to enact legislation approving and ratifying this Joint Resolution .

**SECTION 8. Transmission of certified copies.** Certified copies of this Joint Resolution shall be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior and to the Delegate to Congress from Hawaii.

**SECTION 9. Effective date.** This Joint Resolution shall take effect upon its approval, provided that the provisions herein requiring congressional approval and ratification shall become effective upon the enactment of legislation by Congress approving and ratifying this Joint Resolution.

(Approved June 6, 1957.) **S.J.R. 90, J.R. 45.**

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**J. R. 46**

Joint Resolution Memorializing the Congress of the United States to Enact Legislation for Extension of Federal Guarantees for Purchase of New Flight Equipment by Territorial Scheduled Airlines.

WHEREAS, air transportation within the islands of the Territory of Hawaii is essential to the well-being and welfare of the population of all the islands; and

WHEREAS, the Territory of Hawaii is uniquely dependent on air transportation for the movement of passengers between islands and for the conduct of their daily business; and

WHEREAS, the progress of air transportation within the islands is in the interest of the commerce and the defense of the Territory; and

WHEREAS, the civil aeronautics board has been reported to be

prepared to recommend to the Congress of the United States a program whereby the federal government will guarantee scheduled airlines' purchases of new flight equipment; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. That the Congress of the United States be and hereby is memorialized to enact legislation for the purpose of helping territorial scheduled airlines to obtain new flight equipment through extension of federal guarantees for purchase of such equipment.

SECTION 2. That certified copies of this Joint Resolution be forthwith transmitted to the President of the United States, to the President of the Senate, to the Speaker of the House of Representatives and to the respective chairmen of the Committees on Interior and Insular Affairs and the Committees on Interstate and Foreign Commerce of the Congress of the United States, to the chairman of the Civil Aeronautics Board and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved June 7, 1957.) S.J.R. 25, J.R. 46.

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### J. R. 47

Joint Resolution Requesting the Congress of the United States of America to Amend the Hawaiian Organic Act to Permit the Legislature of the Territory of Hawaii to Enact Legislation Relating to Public Lands.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States of America is hereby respectfully requested to amend section 73 of the Hawaiian Organic Act substantially as set forth in the following form of bill:

"A Bill to Amend Section 73 of the Hawaiian Organic Act.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

SEC. 1. That **section 73 (c)** of the Hawaiian Organic Act be amended by deleting the words 'until Congress shall otherwise provide' appearing at the end of the first sentence and substituting therefor the words 'subject to modification by Congress or the legislature', so that the first sentence of section 73 (c) as so amended shall read as follows:

'The laws of Hawaii relating to public lands, the settlement of boundaries, and the issuance of patents on land commission awards, except as changed by this Act, shall continue in force, subject to modification by Congress or the legislature.'

SEC. 2. This Act shall take effect on and after the date of its approval."



SECTION 2. Certified copies of this Joint Resolution shall be forwarded to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the United States, the Delegate to Congress from Hawaii, and the Secretary of the Interior.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved June 7, 1957.) S.J.R. 44, J.R. 47.

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J. R. 48

Joint Resolution Requesting the Congress of the United States to Waive Certain Restrictions With Respect to the Sale and Exchange of Public Lands for the Relief of Tidal Wave Victims in the Territory of Hawaii.

WHEREAS, many areas in the Territory of Hawaii suffered great damage when struck by the tidal wave which swept over the Territory on March 9, 1957; and

WHEREAS, in assistance to the owners of many of the homes and farm lands that were destroyed by such tidal wave, the legislature favors the relocation of these disaster victims; and

WHEREAS, the present land laws of the Territory hamper and restrict such relocation plans, particularly as to any transfer by exchange or sale of public lands; now therefore,

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact legislation, notwithstanding any provision of the Hawaiian Organic Act to the contrary, to authorize the commissioner of public lands to sell public lands on any island of the Territory, without recourse to auction, to persons whose lands or property were destroyed by the tidal wave of March 9, 1957, in the Territory, or to exchange public lands on any island of the Territory with the lands, but not including improvements thereon, of such persons without regard to any limitation on the value or area thereof.

SECTION 2. Duly authenticated copies of this Joint Resolution shall be forwarded to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States, to the Secretary of the Interior of the United States and to the Delegate to Congress from Hawaii.

SECTION 3. This Joint Resolution shall take effect upon its approval.

(Approved June 7, 1957.) S.J.R. 89, J.R. 48.

## J. R. 49

Joint Resolution Relating to Consents Affecting Public Lands for Which a Certificate of Occupation, Right of Purchase Lease, Cash Freehold Agreement or Special Homestead Agreement Has Been Issued.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. The Congress of the United States is hereby respectfully requested to enact a bill substantially as follows:

"A Bill Amending the Hawaiian Organic Act Relative to Consents Affecting Public Lands for Which a Certificate of Occupation, Right of Purchase Lease, Cash Freehold Agreement or Special Homestead Agreement Has Been Issued.

*Be it Enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

[SEC. 1.] That **section 73 (g)** of the Hawaiian Organic Act (48 U.S.C. 668) is hereby amended as follows:

(a) By deleting the words 'and governor' from the clause in the first sentence 'without the written consent of the commissioner and governor,';

(b) By inserting the words 'before a' after the word 'or' and before the word 'patent' in the clause which reads as follows: 'whether before or after a homestead lease or patent has been issued thereon,';

(c) By deleting the clause 'or, after the issuance of a patent, to or by or for the benefit of any person who owns, or holds, or controls, directly or indirectly, other land or the use thereof, the combined area of which and the land in question exceeds eighty acres.', and the semicolon immediately preceding said clause and substituting therefor a period.

(d) By inserting the following sentence between the first and second sentences of section 73 (g): '**Provided**, that if a mortgage or other transfer for security purposes to a corporation be consented to, and such corporation be the Federal Housing Administration or other similar federal or territorial agency or be an established lending institution authorized to do business in the Territory, no further consent shall be required of:

(1) any subsequent assignment or reassignment made by or to such corporation or assignee thereof for mortgaging or other security purposes; or

(2) any purchase at the foreclosure sale after default, of such public lands by such corporation or assignee thereof then holding the public lands for the abovementioned security purpose;

**Provided, however**, that upon the conveyance by such corporation or assignee of any such public lands acquired at the foreclosure sale, such consent shall be required when said conveyance

is to or for the benefit of an alien or another corporation for other than security purposes, or to or for the benefit of any other person."

SECTION 2. This [Joint Resolution] shall take effect upon its approval.

(Approved June 7, 1957.) S.J.R. 92, J.R. 49.

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**1957  
SPECIAL  
SESSION  
LAWS**



**LAWS**  
OF THE  
**TERRITORY OF HAWAII**  
PASSED BY THE  
**TWENTY-NINTH LEGISLATURE**

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**SPECIAL SESSION**  
**1957**

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Convened on Tuesday, the Twenty-eighth Day of May, and  
Adjourned Sine Die on Saturday, the Eighth Day of June

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And Linda L. Williams

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1959

## FOREWORD

**§§ 1-2 and 1-3, REVISED LAWS OF HAWAII 1955, PROVIDE AS FOLLOWS:**

**"§ 1-2. Publishing of session laws.** As soon as possible after the close of each session of the legislature, the Secretary of the Territory or any other officer or employee of the Territory designated by the governor shall cause all laws duly enacted at such session to be printed, indexed and bound in book form, first the bills and then joint resolutions, in the order of their becoming law.

**"§ 1-3. Certain laws not obligatory until published.** No written law, unless otherwise specifically provided by legislative enactment, except general or special appropriation acts, loan fund acts, pension acts and franchise acts, shall be obligatory without first being printed and made public. General or special appropriation acts, loan fund acts, pension acts and franchise acts whether affecting territorial funds or the funds of county or other municipal subdivisions or commissions, shall become operative according to their respective terms merely by being passed and approved in the manner provided by sections 44 to 54, inclusive, of the Organic Act without the necessity of any other promulgation than the ultimate inclusion thereof in the bound volume of respective session laws as provided in section 69 of the Organic Act."

# C E R T I F I C A T E

## TERRITORY OF HAWAII Office of the Secretary

I, Edward E. Johnston, Secretary of the Territory of Hawaii, do hereby certify that the printed Acts set forth herein are true and correct copies of the original Acts enacted by the Twenty-ninth Legislature of the Territory of Hawaii at its special session of 1957, which was convened in Honolulu on Tuesday, the twenty-eighth day of May, 1957, and adjourned sine die on Saturday, the eighth day of June, 1957; that all such Acts, except as otherwise specifically noted, were approved by the Governor of Hawaii in accordance with the provisions of the Organic Act.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the Great Seal of the Territory of Hawaii on the 27th day of January, 1959.



*Edward E. Johnston*  
Secretary of Hawaii

# CHIEF EXECUTIVE AND OFFICERS AND MEMBERS OF THE TWENTY-NINTH LEGISLATURE OF THE TERRITORY OF HAWAII

## SPECIAL SESSION OF 1957

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**1957**

**Laws Of The Territory Of Hawaii**

**Passed By The**

**Twenty-Ninth Legislature**

**Special Session**

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**ACT 1**

An Act Relating to Taxation: Amending Title 16 and Chapters 143, 178, and 181 of the Revised Laws of Hawaii 1955, That is, Amending Chapters 116, 117, 118, and 119, Repealing Chapter 120, Amending Chapters 121, 122, 124, 125 and 126, Amending Chapter 127 so as to Impose a Franchise Tax and Expand the Scope of the Chapter, Amending Chapters 128 and 129, Amending Section 143-21 of Chapter 143 and Section 178-38 of Chapter 178, and Amending Sections 181-312, 181-313, 181-315 and 181-333 of Chapter 181 and Adding Thereto Section 181-316; Also Allowing an Increase in Certain Charges Limited by Law in View of the Taxes Hereby Imposed and Making an Appropriation for the Administration of This Act.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. Chapter 120 of the Revised Laws of Hawaii 1955 is hereby repealed.

SECTION 2. Chapter 121 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"CHAPTER 121. INCOME TAX LAW**

**PART I: GENERAL PROVISIONS**

**Sec. 121-1. Definitions.** 'Blind' means and refers to a person who has vision in the better eye, with corrective glasses, of less than twenty two-hundredths or a disqualifying field defect sufficient to incapacitate him or her for self-support, so long as his sight is so impaired. The impairment of sight shall be certified to by the territorial board of health or by any territorial, county or city and county medical officer duly authorized by the territorial board of health for this purpose, on the basis of a written report on an examination

performed by a qualified ophthalmologist or qualified optometrist duly authorized by the territorial board of health.

'Corporation' means the same as in the Internal Revenue Code. A 'domestic corporation' is one organized under the laws of the Territory. A 'foreign corporation' is any other corporation.

'Dividend' means any distribution by a corporation to its shareholders or holders of an interest therein which is treated as a dividend by the Internal Revenue Code.

'Fiduciary' means the same as in the Internal Revenue Code.

'Fiscal year' means the same as in the Internal Revenue Code.

'Individual' means a person other than a trust, estate, partnership or corporation, as defined.

'Internal Revenue Code' means the Internal Revenue Code of 1954, as amended as of the date of enactment of the Income Tax Law of 1957, as it applies to the determination of gross income, adjusted gross income and taxable income, except those provisions of the Internal Revenue Code which pursuant to the provisions of this chapter do not apply. Subsequent amendments to the code shall not be operative for the purposes of this chapter.

'Gross income', 'adjusted gross income' and 'taxable income' respectively mean the same as gross income, adjusted gross income and taxable income as defined and determined under the Internal Revenue Code, except as otherwise provided in this chapter.

'Income tax law of 1901' means the income tax law enacted by Act 20 of the Session Laws of 1901 as it read from time to time prior to the enactment of the income tax law of 1932.

'Income tax law of 1932' means the income tax law enacted by Act 44 of the Second Special Session Laws of 1932, as it read from time to time prior to the enactment of the income tax law of 1957.

'Income tax law of 1957' means the income tax law enacted by the Twenty-Ninth Legislature, as it reads from time to time.

'Includes' and 'including' when used in a definition shall not be deemed to exclude other things otherwise within the meaning of the term defined.

'Non-resident' means every individual other than a resident.

'Non-resident estate' or 'non-resident trust' means one other than resident.

'Partnership' has the meaning explained in section 121-15.

'Person' includes an individual, a trust, estate, partnership, association, company or corporation.

'Regulated investment company' means a corporation which qualifies as such under sections 851 and 852 of the Internal Revenue Code.

'Resident' means (a) every individual domiciled in the Territory, and (b) every other individual whether domiciled in the Territory or not, who resides in the Territory. To 'reside' in the Territory means to be in the Territory for other than a temporary or transitory purpose. Every individual who is in the Territory



more than two hundred days of the taxable year in the aggregate shall be presumed to be a resident of the Territory. This presumption may be overcome by evidence satisfactory to the commissioner that the individual maintains a permanent place of abode outside of the Territory and is in the Territory for a temporary or transitory purpose. No person shall be deemed to have gained or lost a residence simply because of his presence or absence in compliance with military or naval orders of the United States, or while engaged in aviation or navigation or while a student at any institution of learning.

'Resident estate' means an estate of a resident decedent the fiduciary of which was appointed by a court of this Territory and the administration of which is carried on in this Territory, and 'resident trust' means a trust of which the fiduciary is a resident of the Territory or the administration of which is carried on in the Territory.

'Taxable year' means the calendar year or the fiscal year ending during such calendar year upon the basis of which income is computed under this chapter. 'Taxable year' includes, in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, the period for which such return is made, and in cases where the commissioner terminates the taxable year in accordance with the provisions of section 115-29 and levies a jeopardy assessment on income for such portion or period of a year under the provisions of section 121-43, then the period or portion of the year for which the jeopardy assessment is made.

'Taxpayer' means a person subject to a tax imposed by this chapter.

'Trade or business' includes the performance of the functions of a public office.

'Uniformed services of the United States' means the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, and all regular and reserve components thereof, including the National Guard. The term 'uniformed services of the United States' applies only to persons who are deemed members thereof under the laws of the United States relating to pay and allowances. Service as a member of the uniformed services includes inactive duty training.

'Without regard to source in the Territory' means that it is not material whether the source is within or without the Territory.

**Sec. 121-2. Legislative intent, how Internal Revenue Code shall apply, in general.**

(a) It is the intent of this chapter, in addition to the essential purpose of raising revenue, to conform the income tax law of the Territory as closely as may be with the Internal Revenue Code in order to simplify the filing of returns and minimize the taxpayer's burdens in complying with the income tax law. The rules and regulations, forms and procedures adopted and established under

this chapter shall conform as nearly as possible, and unless there is good reason to the contrary, to the rules and regulations, forms and procedures adopted and established under the Internal Revenue Code.

(b) The Internal Revenue Code, so far as made applicable by this chapter, is a statute adopted and incorporated by reference. Whenever, in the Internal Revenue Code, the words 'Secretary or his delegate', or words of like import are used, such words shall be deemed to mean the commissioner and his duly authorized subordinates, and the words 'estate taxes' shall be deemed to mean the inheritance and estate taxes imposed by chapter 122.

(c) Where, under a provision of the Internal Revenue Code made applicable by this chapter, the allowance or disallowance to a taxpayer of a deduction, exclusion, adjustment, credit, or exemption is dependent on whether, under the Internal Revenue Code or a prior applicable federal income tax law, the following was or was not, is or is not, in relation to the same taxpayer or another taxpayer, for the same taxable year or a prior taxable year, an operative factor: the imposition or payment of an income tax, an inclusion in gross income, an exclusion from gross income, or a deduction from gross income—the allowance or disallowance under this chapter of such deduction, exclusion, adjustment, credit or exemption shall depend on the operativeness of such factor or factors under this chapter or a prior applicable income tax law of the Territory. This subsection shall govern the application of such sections of the Internal Revenue Code as, for example, sections 111, 164 (d) (2) (C), 215, 668 (b) and 7852 (c) and all matters of a similar nature.

(d) Whenever, in a taxable year of a corporation or its shareholders not governed by the income tax law of 1957, a distribution of money, stock, securities, or other property (whether in complete or partial liquidation or otherwise) has been made by a corporation to shareholders owning such shares in the Territory, or stock, securities or other property has been transferred to a corporation, or corporate stock or securities exchanged, in the course of a corporate organization or reorganization effected under the laws of the Territory, in the application of the income tax law of 1957 effect shall be given to the recognition of income by the income tax laws of 1901 and 1932, if any, to the extent necessary to avoid double taxation, for example, in determining the earnings and profits of any corporation involved or the basis of any stock, securities or other property so received, transferred, or exchanged. No increase in basis shall be allowed on account of such events in taxable years not governed by the income tax law of 1957, except as provided by this paragraph. As used in this paragraph the words 'double taxation' mean and refer to double taxation of the same taxpayer, or taxation of both a corporation and its shareholders when the taxation of both would not have occurred had the income tax law of 1957 governed prior taxable years.

(e) In the determination of the basis or adjusted basis of any

stock, securities or other property: (1) if such property was acquired by an exchange (including an involuntary conversion or the sale of an old residence and purchase of a new residence where both occur within a one-year period) the 'cost' thereof to the taxpayer shall be deemed to include among other things, any income of the taxpayer recognized by the income tax laws of 1901 and 1932 as a result of the exchange; (2) if such basis is dependent upon acquisition from a decedent, the property shall be deemed to have been acquired from a decedent if deemed so acquired for the purposes of chapter 122 but not otherwise, and the residence or non-residence of the decedent, the location of the property, and the provisions of chapter 122 as it read at the time of the acquisition shall be considered; (3) if such basis is dependent upon deductions, exclusions, or exemptions taken or allowable, under the Internal Revenue Code or a prior applicable federal income tax law, in a prior year, it shall depend upon deductions, exclusions or exemptions taken or allowable under the provisions of the income tax law of the Territory governing such prior year; (4) if such basis is dependent upon the election provided for by section 307, Internal Revenue Code, it shall be governed by the election actually made under the Internal Revenue Code for the taxable year, whether or not said taxable year was governed by the income tax law of 1957.

**Sec. 121-3. Income taxes by the Territory; residents, non-residents, corporations, estates and trusts.** (a) The tax imposed by this chapter applies to the entire income of a resident, computed without regard to source in the Territory; **provided**, that in the case of an individual who takes up residence in the Territory after attaining the age of sixty-five years the tax imposed by this chapter applies to the income received or derived from property owned, personal services performed, trade or business carried on, and any and every other source in the Territory.

(b) In the case of a non-resident, the tax applies to the income received or derived from property owned, personal services performed, trade or business carried on, and any and every other source in the Territory.

(c) When the status of a taxpayer changes during the taxable year from resident to non-resident, or from non-resident to resident, there shall be attributed to the Territory such portion of the income dependent upon the residence of the taxpayer as is determined by applying to such income for the whole taxable year the ratio which the period of residence in the Territory bears to the whole taxable year, unless the taxpayer shall show to the satisfaction of the commissioner that the result is to attribute to the Territory income, dependent upon residence, received or derived during the period of non-residence, in which event the amount of income as to which such showing is made shall be excluded.

(d) A corporation, foreign or domestic, is taxable upon the income received or derived from property owned, trade or business carried on, and any and every other source in the Territory. In addition thereto a domestic corporation is taxable upon its income

from property owned, trade or business carried on, and any and every other source outside the Territory, unless subjected to income tax thereon in any other jurisdiction. Subjection to federal tax does not constitute subjection to income tax in another jurisdiction.

(e) (1) The income of a resident estate or trust shall be computed without regard to source in the Territory. The income of a non-resident estate or trust shall be that received or derived from sources in the Territory.

(2) A beneficiary of an estate or trust, or person treated as the owner of any portion of a trust, who is taxable upon income thereof under the Internal Revenue Code, shall be taxed thereon as herein provided, irrespective of the taxability of the estate or trust or whether it is required to make a fiduciary return under this chapter. If all such income consists of income which would be taxable under this chapter if received directly by such beneficiary or person, he shall be taxed upon all of it. If some of it consists of income which would not be taxable if received directly by such beneficiary or person, then unless the trust instrument provides otherwise the income of each such beneficiary or person shall be conclusively presumed to have been received or derived out of each class of income of the estate or trust, and he shall be taxed upon such part of it as would be taxable if received directly by him.

(3) Each estate or trust shall include in its return all of the information necessary to determine the taxability of the income of the estate or trust, regardless of source. Only in the case of a non-resident estate or trust of which all the beneficiaries are non-residents and no part of which is treated as owned by a resident shall the return be confined to income from sources in the Territory. The provisions of this paragraph shall not cause income to be taxed to an estate or trust that otherwise would not have been so taxed.

**Sec. 121-4. Allocation of income of persons not taxable upon entire income.** This section applies to persons who are not required to include in their returns their entire income from every source whether within or without the Territory.

(a) Income (including gains), also losses, from property owned in the Territory and from any other source in the Territory shall be determined by an allocation and separate accounting so far as practicable. Losses from property owned outside the Territory and from other sources outside the Territory shall not be deducted.

(b) Deductions connected with income taxable under this chapter shall be allowed, but deductions connected with income not taxable under this chapter shall not be allowed. Deductions from adjusted gross income that are not connected with particular property or income, such as medical expenses, shall be allowed only to the extent of the ratio of the adjusted gross income attributed to this Territory to the entire adjusted gross income computed without regard to source in the Territory.

(c) (1) Income or loss from a trade or business carried on in the Territory shall be attributed to the Territory. Every person shall be deemed to be carrying on a trade or business in the Territory if his income therefrom is subject to the taxing jurisdiction of this Territory by reason of his engaging in activities in this Territory, or causing transactions to be conducted in this Territory, with the object of gain, profit, or economic benefit, whether or not such activities or transactions are in or connected with interstate or foreign commerce.

(2) Where a person's trade or business is carried on both within and without the Territory, the portion of the income attributable to the Territory shall, so far as practicable, be determined by an allocation and separate accounting, whenever the person's trade or business within the Territory is not an integral part of a unitary business conducted within and without the Territory; **provided**, that the commissioner may permit an allocation and separate accounting whenever he is satisfied that the use of such method will properly reflect the income taxable by this Territory.

(3) In all cases in which, as to all or a part of a person's income, allocation and separate accounting is not permissible, such income shall be apportioned to this Territory on the basis of the ratio obtained by taking the arithmetical average of the ratios prescribed in subsection (d).

(d) (1) If a person's principal business in this Territory is producing or manufacturing tangible personal property, including without limitation the business of fishing, or raising or producing agricultural, animal, poultry or natural resource products, or canning, packing, milling, preserving, and other forms of compounding, processing or preparing commodities for sale or use, the ratios used shall be: (i) the ratio of the value of the tangible property (real, personal and mixed, inclusive of leasehold interests) owned by him in this Territory on the last day of the taxable year in connection with such trade or business, exclusive of property the income of which is separately allocated, to the total of such property everywhere (hereinafter called the property ratio); and (ii) the ratio of the wages, salaries, commissions and other compensation of his employees for services performed in this Territory, exclusive of services in connection with business the income of which is separately allocated, to the total of such compensation for employees' services everywhere (hereinafter called the payroll ratio).

(2) If paragraph (1) does not apply and a person's principal business in this Territory is selling tangible personal property, the ratios used shall be the property ratio, the payroll ratio, and the ratio of gross sales attributable to this Territory to the total of gross sales everywhere. There shall be attributed to this Territory all sales of such tangible personal property (i) delivered to a purchaser at a point within this Territory, or (ii) shipped to a purchaser at a point within this Territory, or (iii) delivered to a

purchaser at a point outside this Territory or shipped to a purchaser at a point outside this Territory, if such point is located in a state, territory, or similar taxing jurisdiction in which the person is not doing business, and the sale was made on an order secured or received by an office or branch in this Territory or a representative residing or stationed in this Territory.

(3) In all other cases the ratios used shall be the property ratio, the payroll ratio, and the ratio of the person's gross receipts in the Territory from such trade or business to his gross receipts everywhere from such trade or business. As used in this paragraph 'gross receipts in the Territory' shall include all receipts received or derived from persons and other sources within the Territory, wherever paid, and all receipts from sales attributed to this Territory in accordance with paragraph (2).

(e) If in the opinion of the commissioner the methods of allocation and apportionment hereinabove provided do not clearly and accurately reflect the actual amount of the adjusted gross income and taxable income received or derived from all property owned and every trade or business carried on and any and every other source in the Territory, or if any person shows that the methods of allocation and apportionment hereinabove provided result in adjusted gross income or taxable income being attributed to the Territory in a larger amount than is just and equitable, then the same shall be determined, allocated and apportioned under such rules and regulations, processes and formulas as the commissioner prescribes as being just and equitable.

**Sec. 121-5. Other provisions as to gross income, adjusted gross income and taxable income.** (a) There shall be excluded from gross income, adjusted gross income and taxable income: (1) income not subject to taxation by the Territory under the Constitution and laws of the United States; (2) rights, benefits and other income exempted from taxation by section 6-58, having to do with the territorial retirement system, and the rights, benefits and other income, comparable to the rights, benefits and other income exempted by section 6-58, under any other public retirement system; (3) any compensation received in the form of a pension for past services, or paid as a weekly benefit for unemployment up to but not in excess of the amount provided by the employment security law (it being the intention of this provision to exempt that amount whether paid from a fund or account in the federal or territorial treasury or paid by an employer or by a trust or other means provided by an employer); (4) compensation received from the United States for services as a member of the uniformed services of the United States; (5) compensation paid to a patient affected with Hansen's Disease employed by the Territory or the United States in any hospital, settlement, or place for the treatment of Hansen's disease; (6) except as otherwise expressly provided, payments made by the United States or this Territory, under an Act of Congress or a law of this Territory, which by express provision or administrative regulation or interpretation

are exempt from both the normal and surtaxes of the United States, even though not so exempted by the Internal Revenue Code itself; (7) any income expressly exempted or excluded from the measure of the tax imposed by this chapter by any other law of the Territory, it being the intent of this chapter not to repeal or supersede any such express exemption or exclusion.

(b) There shall be included in gross income, adjusted gross income and taxable income, unless excluded by the provisions of this chapter relating to the uniformed services of the United States, cost-of-living allowances and other payments exempted by section 912 of the Internal Revenue Code, but section 119 of the Internal Revenue Code nevertheless shall apply.

(c) The exclusion from dividends received, allowed to an individual by section 116 of the Internal Revenue Code, shall not be allowed. The deductions of or based on dividends paid or received, allowed to a corporation under chapter 1, sub-chapter B, part VIII of the Internal Revenue Code, shall not be allowed. In lieu thereof there shall be allowed as a deduction the entire amount of dividends received by any corporation upon the shares of stock of a national banking association, and eighty-five per cent of the amount received by any corporation as dividends: (1) upon the shares of stock of another corporation, if at the date of payment of such dividend at least ninety-five per cent of such other corporation's capital stock is owned by one or more corporations doing business in this Territory; (2) upon the shares of stock of a bank or insurance company organized and doing business under the laws of the Territory; (3) upon the shares of stock of another corporation, if at least fifteen per cent of such latter corporation's business, for the taxable year of such latter corporation preceding the payment of such dividend, has been attributed to this Territory. For the purposes of this paragraph fifteen per cent of a corporation's business shall be deemed to have been attributed to this Territory if fifteen per cent or more of the entire gross income of such corporation as defined in this chapter (which for the purposes of this paragraph shall be computed without regard to source in the Territory and shall include income not taxable by reason of the fact that it is from property not owned in the Territory or from a trade or business not carried on in the Territory in whole or in part) shall, under the provisions of section 121-4 and the other provisions of this chapter, have been attributed to the Territory and subjected to assessment of the taxable income therefrom (including the determination of the resulting net loss, if any).

(d) The net operating loss deductions allowed as carry-backs and carry-overs by the Internal Revenue Code shall not be allowed. In lieu thereof the net operating loss deduction shall consist of the excess of the deductions allowed by this chapter over the gross income, computed with the modifications specified in paragraphs (1) to (4) inclusive of section 172 (d) of the Internal Revenue Code, and with the further modification stated in the next sentence hereof; this net operating loss deduction shall be allowed

as a deduction in computing the taxable income of the taxpayer for the succeeding taxable year. In computing the net operating loss deduction allowed by this subsection there shall be included in gross income the amount of interest which is excluded from gross income by subsection (a), decreased by the amount of interest paid or accrued which is disallowed as a deduction by subsection (e).

(e) There shall be disallowed as a deduction the amount of interest paid or accrued within the taxable year on indebtedness incurred or continued, (1) to purchase or carry bonds the interest upon which is excluded from gross income by subsection (a); or (2) to purchase or carry property owned without the Territory, or to carry on trade or business without the Territory, if the taxpayer is a person taxable only upon income from sources in the Territory.

(f) Losses of property as the result of tidal wave, earthquake, or volcanic eruption, or as the result of flood waters overflowing the banks or walls of a river or stream, to the extent of the amount deductible under this chapter, not compensated for by insurance or otherwise, may be deducted in the taxable year in which sustained, or at the option of the taxpayer may be deducted in equal installments over a period of five years, the first such year to be the calendar or fiscal year of the taxpayer in which such loss occurred.

**Sec. 121-6. Exemptions; generally.** (a) Except as provided in sections 121-16 to 121-22 relating to withholding and collection of tax at source, and section 121-7 relating to 'unrelated business taxable income', the following persons and organizations shall not be taxable under this chapter:

(1) Banks and building and loan associations taxable under the provisions of chapter 127; and insurance companies and agricultural cooperative associations, exclusively taxable under the provisions of other laws;

(2) Corporations, companies, associations or trusts conducted solely for charitable, religious, educational or scientific purposes within the Territory, including fraternal beneficiary societies;

(3) Corporations, companies, associations or trusts organized for the establishment and conduct of cemeteries, no part of the net earnings of which inures to the financial benefit of any private shareholder or individual;

(4) Business leagues, chambers of commerce, real estate boards or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(5) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons, and the net earnings of which are devoted exclusively to charitable, educational



or recreational purposes within the Territory;

(6) Labor organizations;

(7) Clubs organized and operated exclusively for pleasure, recreation and other non-profit purposes, no part of the net earnings of which inures to the benefit of any private shareholder;

(8) A trust forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries, and which meets the requirements of the Internal Revenue Code for exemption from the tax thereby imposed.

(b) Notwithstanding that any person is exempted from taxation by the Internal Revenue Code, nevertheless if such person is not exempted from taxation by this chapter, he or it shall be taxed in accordance with this chapter.

**Sec. 121-7. Unrelated business taxable income.** The persons and organizations exempted by section 121-6 shall, if subject to tax under the Internal Revenue Code upon their 'unrelated business taxable income', be taxed thereon under this chapter. For the purposes of this section the term 'taxable income' as used in sections 121-13 and 121-23 shall be read as 'unrelated business taxable income'.

'Unrelated business taxable income' means the same as in the Internal Revenue Code, except that in the computation thereof sections 121-2, 121-3, 121-4, and 121-5 (except subsection (c) ), shall apply, and in the determination of the net operating loss deduction under section 121-5 (d) there shall not be taken into account any amount of income or deduction which is excluded in computing the unrelated business taxable income.

## PART II: INDIVIDUAL INCOME TAX

**Sec. 121-8. (a) Tax on individuals; rate.** There shall be assessed, levied, collected and paid, for each taxable year on the taxable income of every individual, a tax in the following amount:

If the taxable income is:	The tax shall be:
Not over \$500	3% of taxable income.
Over \$500, but not over \$1,000,	\$15 plus 3½% of excess over \$500.
Over \$1,000, but not over \$2,000,	\$32.50 plus 4% of excess over \$1,000.
Over \$2,000, but not over \$5,000,	\$72.50 plus 5% of excess over \$2,000.
Over \$5,000, but not over \$10,000,	\$222.50 plus 6% of excess over \$5,000.
Over \$10,000, but not over \$20,000,	\$522.50 plus 7% of excess over \$10,000.
Over \$20,000, but not over \$30,000,	\$1,222.50 plus 8% of excess over \$20,000.
Over \$30,000	\$2,022.50 plus 9% of excess over \$30,000.

(b) In lieu of computation of the tax as above provided, the tax shall be computed as follows when this subsection is applicable:

Reduce the taxable income by an amount equal to fifty per cent of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year, and apply to the taxable income, so reduced, the rates provided by subsection (a).

Apply to the entire amount of the excess of the net long-term capital gain over the net short-term capital loss for the taxable year, a tax of three per cent.

Add the resultant two amounts; this constitutes the tax if less than the tax computed under subsection (a).

**Sec. 121-9. Tax in case of joint return or return of surviving spouse.** In the case of a joint return of a husband and wife under section 121-27, the tax imposed by section 121-8 shall be twice the tax which would be imposed if the taxable income were cut in half. For purposes of this section and section 121-10, a return of a surviving spouse, as defined in the Internal Revenue Code, shall be treated as a joint return of a husband and wife under section 121-27.

**Sec. 121-10. Alternative 'shortform' tax; tables.** If a taxpayer's adjusted gross income for the taxable year is less than \$6,000 and he so elects, there shall be assessed, levied, collected and paid for that year a tax determined on the basis of tables to be prepared and furnished by the commissioner, which tax shall be substantively equivalent to the tax provided in section 121-8 and shall be in lieu thereof.

**Sec. 121-11. Exemptions.** (a) In computing the taxable income of any individual, there shall be deducted, in lieu of the personal exemptions allowed by the Internal Revenue Code, personal exemptions computed as follows: Ascertain the number of exemptions which the individual can lawfully claim under the Internal Revenue Code and multiply that number by \$400. A non-resident shall be entitled to the same personal exemptions as a resident, without proration of the personal exemptions on account of income from sources outside the Territory.

(b) In computing the taxable income of an estate or trust there shall be allowed, in lieu of the deductions allowed under subsection (a), the following:

An estate shall be allowed a deduction of \$400.

A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of \$200.

All other trusts shall be allowed a deduction of \$80.

(c) A blind person, in lieu of the personal exemptions allowed by the Internal Revenue Code shall be allowed, and there shall be deducted in computing the taxable income of a blind person, instead of the exemptions provided by subsection (a), the amount of \$5,000.

**Sec. 121-12. Tax credits for resident taxpayers.** (a) Whenever an individual or person liable to the taxes imposed upon individuals, who is a resident of the Territory, has become liable for income taxes to a state, or to the District of Columbia, Puerto Rico or any other Territory or possession of the United States, or to a foreign country upon any part of his taxable income for the taxable year, derived or received from sources within such other jurisdiction and taxed under the laws thereof irrespective of the residence or domicile of the recipient, there shall be credited against the tax payable by him under this chapter the tax so paid by him to the other jurisdiction upon his producing for the commissioner satisfactory evidence (a) of such tax payment, and (b) that the laws of the other jurisdiction do not allow him a credit against the taxes imposed by such jurisdiction for the taxes paid or payable under this chapter, or do allow such credit in an amount which has been deducted in computing the amount of credit sought under this section. The application of such credit, however, shall not operate to reduce the tax payable under this chapter to an amount less than that which would have been payable were the taxpayer a non-resident.

(b) If any taxes paid to another jurisdiction for which a taxpayer has been allowed a credit under this section are at any time credited or refunded to the taxpayer, such fact shall be reported by the taxpayer to the commissioner within twenty days after the credit or refund. Failure to make such report shall be deemed failure to make a return and subject to the penalties imposed by law in such cases. A tax equal to the credit allowed for the taxes so credited or refunded shall be due and payable from the taxpayer upon notice and demand from the commissioner. If the amount of such tax is not paid within ten days from the date of the notice and demand, the taxpayer shall be subject to the usual penalties and interest for delinquency in payment.

(c) Nothing contained in this section shall be construed to permit a credit against the taxes imposed by this chapter on account of federal income taxes.

**Sec. 121-13. Estates and trusts.** There shall be assessed, levied, collected and paid for each taxable year on the taxable income of every estate or trust, after deduction of the exemptions allowed the estate or trust under section 121-11, a tax in the amount imposed upon individuals. The taxable income shall be computed in the manner provided by the Internal Revenue Code, except as otherwise provided in this chapter, and except that the deduction for contributions and gifts shall be limited to the amount allowed in the case of an individual, unless the contributions and gifts are to be used exclusively in the Territory. Whenever, under the Internal Revenue Code, it is provided that the grantor or another person shall be treated as the owner of any portion of a trust he shall be so treated under this chapter and his taxable income shall be computed accordingly.

**Sec. 121-14. Decedents.** In respect of a decedent, the deter-

mination of the income of the taxable period in which falls the date of his death, and the determination of the income of the estate and of the persons who acquire rights from the decedent or by reason of his death, shall be governed by the provisions of the Internal Revenue Code.

**Sec. 121-15. Partners.** A partnership as such shall not be subject to the income tax imposed by this chapter. Persons carrying on business as partners shall be liable for income tax only in their separate or individual capacities. Each partner shall be taxed under this chapter only on his distributive share of partnership income, whether actually distributed or not, for the taxable year ending within or with the taxable year of the partner, as provided by the Internal Revenue Code. What is a partnership, partnership income, distributive shares of partnership income, and persons to be recognized as partners, shall be determined in accordance with the provisions of the Internal Revenue Code.

#### WITHHOLDING AND COLLECTION OF TAX AT SOURCE

**Sec. 121-16. Withholding of tax on wages.** (a) As used in this section: (1) 'wages' means wages, commissions, fees, salaries, bonuses and every and all other kinds of remuneration for, or compensation attributable to, services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash and the cost-of-living allowances and other payments included in gross income by section 121-5 (b), but excluding income excluded from gross income by section 121-5 or other provisions of this chapter; (2) 'employee' includes an officer or elected official, or any other employee; (3) 'employer' means (i) the person or government for whom an individual performs or performed any service, of whatever nature, as the employee of such person or government and (ii) the person having control of the payment of the wages if the 'employer' as heretofore defined does not have control thereof, and (iii) any person subject to the jurisdiction of the Territory and paying wages on behalf of an 'employer' as heretofore defined if said employer is not subject to the jurisdiction of the Territory; **provided**, the term 'employer' shall not include any government that is not subject to the laws of the Territory except as, and to the extent that, it consents to the application of sections 121-16 to 121-22 to it.

(b) Every employer, as defined herein, making payment of wages, as herein defined, to employees, shall deduct and withhold from such wages an amount of tax determined as provided in this section.

(c) For each withholding period (whether weekly, biweekly, monthly or otherwise) the amount of tax to be withheld under this section shall be at a rate which, for the taxable year, will yield the tax imposed by section 121-8 upon each employee's annual wage, as estimated from his current wage in any withholding period, but (for the purposes of this subsection) of the rates provided by section 121-8 the maximum to be taken into considera-

tion shall be six per cent. Such tax for the taxable year shall be calculated upon the following assumptions: (1) that the employee's annual wage, as estimated from his current wage in the withholding period, will be his sole income for the taxable year; (2) that there will be no deductions therefrom in determining adjusted gross income; (3) that in determining taxable income there will be deductions in the amount of ten per cent of the estimated annual wage; (4) that in determining taxable income there also will be deducted the amount of exemptions granted to such employee in the computation of taxable income, as shown by a certificate to be filed with the employer as provided by subsection (f); and (5) if it appears from the certificate filed pursuant to subsection (f) that such employee is, under section 121-27, entitled to make a joint return, that he and his spouse will so elect.

(d) Alternatively, at the election of the employer, he may deduct and withhold from each employee an amount of tax determined on the basis of tables to be prepared and furnished by the commissioner, which amount of tax shall be substantially equivalent to the amount of tax provided by subsection (c) hereof.

(e) The commissioner, by regulation, may require the deduction and withholding of tax from any remuneration or compensation paid for or attributable to services that are not subject to the general excise tax imposed by chapter 117, whether or not such withholding is provided for hereinabove. Every person so required to deduct and withhold tax, or from whom tax is required to be deducted and withheld, shall be subject to all of the provisions of sections 121-16 to 121-22, and every person so required to deduct and withhold tax shall be deemed an employer for the purposes of this chapter.

The commissioner, by regulation, may exempt any employer from the requirement of deduction and withholding of taxes, even though such requirement is imposed by this section, if and to the extent that the commissioner shall find such requirement unduly onerous or impracticable of enforcement.

(f) On or before the date of the commencement of employment with an employer, the employee shall furnish the employer with a signed certificate relating to the amount of exemptions which he claims, which shall in no event exceed the amount to which he is entitled on the basis of the existing facts, and also showing whether he is married and is, under section 121-27, entitled to make a joint return. The certificate shall be in such form and contain such information as may be prescribed by the commissioner.

If, on any day during the calendar year, there is a change in the employee's marital status and he no longer is entitled to make a joint return, or the amount of exemptions to which the employee is entitled is less than the amount of exemptions claimed by the employee on the certificate then in effect with respect to him, the employee shall within ten days thereafter furnish the employer with a new certificate showing his present marital status, or

relating to the amount of exemptions which the employee then claims, which shall in no event exceed the amount to which he is entitled on the basis of the existing facts. If, on any day during the calendar year, there is a change in the employee's marital status and though previously not entitled to make a joint return he now is so entitled, or the amount of exemptions to which he is entitled is greater than the amount of exemptions claimed, the employee may furnish the employer with a new certificate showing his present marital status, or relating to the amount of exemptions which the employee then claims, which shall in no event exceed the amount to which he is entitled on the basis of the existing facts.

Such certificate shall take effect at the times set forth in the Internal Revenue Code.

Any individual required to supply information to his employer under this section who wilfully supplies false or fraudulent information, or who wilfully fails to supply information under this section which would require an increase in the tax to be withheld, shall be fined not more than \$500, or imprisoned not more than six months, or both.

**Sec. 121-17. Return and payment of withheld taxes.** Every employer required by this chapter to withhold taxes on wages paid in any month shall make return of such wages and taxes to the commissioner within twenty days after the close of the month for which the taxes have been withheld. The return shall be in such form and contain such information as may be prescribed by the commissioner. The return shall be filed with the collector of the taxation division in which the employer has his principal place of business or with the commissioner at Honolulu if the employer has no place of business in the Territory. Every return under this section shall be accompanied by a remission of the complete amount of tax withheld, as reported in the return; **provided**, that the commissioner may, if he believes such action necessary where collection of the tax may be in jeopardy, require any person required to make a return under this section to make such return and pay such tax at any time; **provided, further**, that the commissioner may grant permission to employers having a payroll of not more than \$1,500 per month, to make returns and payments on a quarterly basis, such returns and payments to be made within twenty days after the close of each quarter, to wit, on or before April 20, July 20, October 20, and January 20. The commissioner, for good cause, may extend the time for making returns and payments, but not beyond the twentieth day of the second month next succeeding the regular due date thereof. With respect to wages paid out of public moneys, the commissioner in his discretion may prescribe special forms for, and different procedures and times for the filing of, such returns by employers paying such wages, or may, upon such conditions and subject to such rules as he may prescribe from time to time, waive the filing of any such returns.

**Sec. 121-18. Statements to employees.** Every employer required

to deduct and withhold any tax on the wages of any employee shall furnish to each such employee in respect of his employment during the calendar year, on or before January 31 of the succeeding year, or if his employment is terminated before the close of such calendar year, on the day on which the last payment of wages is made, a written statement, showing the period covered by the statement, the wages paid by the employer to such employee during such period, and the amount of the tax deducted and withheld or paid in respect of such wages. Each such employer shall include with his final return for the calendar year, or shall file on or before January 31, a duplicate copy of each such statement. The commissioner may grant to any employer a reasonable extension of time, not in excess of sixty days, with respect to any statement required by this section to be furnished to an employee or filed, and may by regulation provide for the furnishing or filing of statements at such other times and containing such other information as may be required for the administration of this chapter. The commissioner shall prescribe the form of the statement required by this section and may adopt any federal form appropriate for the purpose.

**Sec. 121-19. Taxes withheld by employer held in trust; employer's liability.**

(a) All taxes withheld by any employer under section 121-16 shall be held in trust by him for the Territory and for the payment of the same to the collector in the manner and at the time required by this chapter. If any employer shall fail, neglect, or refuse to deduct and withhold from the wages paid to an employee, or to pay over, the amount of tax required, such employer shall be liable to pay to the Territory the amount of said tax. This amount shall, whether or not tax withholdings constituting trust funds have been commingled with said employer's assets, form a lien on said employer's entire assets, having priority over all other claims of any person. An employer may recover from an employee any amount which he should have withheld but did not withhold from such employee's wages, if he has been required to pay and has paid said amount to the Territory out of his own funds pursuant to this section.

(b) In addition to the liability imposed by subsection (a) if any employer which is a corporation fails, neglects, or refuses to deduct and withhold from the wages paid to any employee, or to pay over, the amount of tax required, any officer of such corporation who as such officer is under a duty to deduct and withhold or to pay over, the amount of tax required, and who wilfully fails to perform such duty, shall be liable to the Territory for the amount of said tax. Said liability may be assessed and collected in the same manner as the liability imposed by subsection (a); **provided further**, that two or more officers may be assessed under this subsection jointly or in the alternative, but the tax shall be collected only once with respect to the same wages. The issuance or allowance of any certificate issued or allowed under the provisions of section 172-135 shall not discharge the liability hereby imposed.

**Sec. 121-20. Misdemeanors, employers, etc.** (a) Any person required under sections 121-16 to 121-19 to collect, account for, and pay over any tax imposed by this title who wilfully fails to collect or truthfully account for and pay over such tax shall, in addition to other penalties provided by law, be guilty of a misdemeanor.

(b) Any person required under the provisions of section 121-18 to furnish a statement to an employee who wilfully furnishes a false or fraudulent statement or who wilfully fails to furnish a statement in the manner, at the time, and showing the information required under section 121-18, or regulations prescribed thereunder, shall be guilty of a misdemeanor.

The penalty for any misdemeanor under subsection (a) shall be a fine of not more than \$1,000 or imprisonment for not more than one year, or both. The penalty for any misdemeanor under subsection (b) shall be a fine of not more than \$500 or imprisonment for not more than six months, or both.

**Sec. 121-21. Further withholdings at source; crediting of withheld taxes.** (a) The commissioner, by regulation, may require the deduction and withholding of tax from any gross income or adjusted gross income of a non-resident, in order to collect the tax imposed by this chapter on the non-resident.

(b) Income upon which any tax has been withheld at the source under sections 121-16 to 121-19, or under regulations adopted pursuant to subsection (a), shall be included in the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return, and if in excess of the tax due for the taxable year shall be refunded as provided in section 121-44.

**Sec. 121-22. Indemnity of withholder.** Every person required to withhold a tax under sections 121-16 to 121-19, or under regulations adopted pursuant to section 121-21 (a), is hereby made liable for such tax and is hereby relieved of liability for or upon the claim or demand of any other person for the amount of any payments to the commissioner made in accordance with the provisions of said sections.

### PART III: CORPORATION INCOME TAX

**Sec. 121-23. Tax on corporations; rates; credit of shareholder of regulated investment company.** (a) A tax at the rates herein provided shall be assessed, levied, collected and paid for each taxable year on the taxable income of every corporation, including a corporation carrying on business in partnership, except that in the case of a regulated investment company the tax is as provided by subsection (b).

The tax shall be at the rate of  $2\frac{3}{4}$  per cent on such amount of capital gain as, under the Internal Revenue Code, is entitled to the alternative tax treatment, and on all other taxable income the tax shall be at the rate of 5 per cent if the taxable income is not over \$25,000, and on all over \$25,000,  $5\frac{1}{2}$  per cent.



(b) In the case of a regulated investment company there is imposed on the taxable income, computed as provided in sections 852 and 855 of the Internal Revenue Code but with the changes and adjustments made by this chapter (without prejudice to the generality of the foregoing, the deduction for dividends paid is limited to such amount of dividends as is attributable to income taxable under this chapter), a tax consisting in the sum of the following:

Five per cent if the taxable income is not over \$25,000, and on all over \$25,000 five and one-half per cent.

Two and three-quarters per cent on the amount of capital gain which is taxed under section 852 (b) (3) (A) of the Internal Revenue Code.

(c) In the case of a shareholder of a regulated investment company there is hereby allowed a credit in the amount of two and three-quarters per cent of the amount of capital gains which by section 852 (b) (3) (D) of the Internal Revenue Code is required to be included in the shareholder's return and on which there has been paid to the Territory by the regulated investment company the tax of two and three-quarters per cent imposed by subsection (b); the amount of this credit may be applied or refunded as provided in section 121-44.

**Sec. 121-24. Corporations carrying on business in partnership.** Section 121-15 shall apply to corporations as well as others.

#### PART IV. RETURNS AND PAYMENTS: ADMINISTRATION

**Sec. 121-25. Accounting basis, etc.** Taxable income shall be computed upon the basis of the taxable year as provided by the Internal Revenue Code, which except as otherwise provided in this chapter shall govern matters such as whether income is to be computed upon the basis of the calendar year or a fiscal year, when a fractional part of a year is to be deemed a 'taxable year', changes in accounting periods, methods of accounting, the taxable year for which items of gross income are to be included and deductions taken, and inventories. Whenever the provisions of the Internal Revenue Code as to the computation of taxable income for a taxable year are, by reason of income being returnable for such year in unusual amounts, accompanied by provisions limiting the amount of tax attributable to such income (for example, the provisions of sections 1301-1304 of the Internal Revenue Code), then if and to the extent that the determination of taxable income for such taxable year under this chapter is governed by those provisions of the Internal Revenue Code, such determination shall be subject to the accompanying provisions of the Internal Revenue Code limiting the amount of tax, and such accompanying provisions shall be applied in the computation of the tax imposed by this chapter.

**Sec. 121-26. Returns, who shall make.** For each taxable year, returns shall be made by the following persons to the commissioner in such form and manner as he shall prescribe:

(a) Every person doing business in the Territory during the taxable year, whether or not he derives any taxable income therefrom. As used in this paragraph 'doing business' includes all activities engaged in or caused to be engaged in with the object of gain or economic benefit, direct or indirect, except personal services performed as an employee under the direction and control of an employer. Every person receiving rents from property owned in the Territory is classed as 'doing business' and must make a return whether or not he derives taxable income therefrom.

(b) Every corporation having for the taxable year gross income subject to taxation under this chapter.

(c) Every individual, estate or trust having for the taxable year gross income subject to taxation under this chapter, except as exempted from the filing of a return by regulations of the commissioner.

The commissioner may by regulation excuse the filing of a return by an individual, estate or trust in cases not coming within the provisions of paragraph (a), where the gross income and exemptions are such that no tax is expected to accrue under this chapter, or are such that substantially all the tax will have been collected through tax withholdings or at the source.

**Sec. 121-27. Joint returns.** A husband and wife, having that status for purposes of the Internal Revenue Code and entitled to make a joint federal return for the taxable year, may make a single return jointly of taxes under this chapter for the taxable year. In that case the tax shall be computed on the aggregate income as provided in section 121-9, and the liability with respect to the tax shall be joint and several.

If an individual has filed a separate return for a taxable year for which a joint return could have been made by him and his spouse, an election thereafter to make a joint return for the taxable year shall be made only upon compliance with regulations of the commissioner, which may limit the election and prescribe the terms and provisions applicable in such cases as nearly as may be in conformity with the Internal Revenue Code.

**Sec. 121-28. Returns by agent, guardian, etc.; liability of fiduciaries.**

(a) **Returns of decedents.** If an individual is deceased, the return of such individual required under section 121-26 shall be made by his executor, administrator, or other person charged with the care of property of such decedent.

(b) **Persons under a disability.** If an individual is unable to make a return required under section 121-26 or section 121-31, the return of such individual shall be made by a duly authorized agent, his committee, guardian, fiduciary or other person charged with the care of the person or property of such individual. The preceding sentence shall not apply in the case of a receiver appointed by authority of law in possession of only a part of the property of an individual.

(c) **Receivers, trustees and assignees for corporations.** In a case where a receiver, trustee in bankruptcy or assignee, by order of a court of competent jurisdiction, by operation of law or otherwise, has possession of or holds title to all or substantially all the property or business of a corporation, whether or not such property or business is being operated, such receiver, trustee, or assignee shall make the return of income for such corporation in the same manner and form as corporations are required to make such returns.

(d) **Returns of estates and trusts.** Returns of an estate or a trust shall be made by the fiduciary thereof.

(e) **Joint fiduciaries.** Under such regulations as the commissioner may prescribe, a return made by one of two or more joint fiduciaries shall be sufficient compliance with the requirements of this section. A return made pursuant to this paragraph shall contain a statement that the fiduciary has sufficient knowledge of the affairs of the person for whom the return is made to enable him to make the return, and the return is, to the best of his knowledge and belief, true and correct.

(f) **Liability of fiduciaries.** A tax imposed upon a fiduciary shall be a charge upon the property held by the fiduciary in that capacity.

**Sec. 121-29. Partnership returns.** Every partnership shall make a return for each taxable year upon forms prescribed by the commissioner, itemizing its gross income and allowable deductions and including the names and addresses of the persons who would be entitled to share in the income if distributed and the amount of each distributive share. The return shall be authenticated by the signature of any one of the partners, under the penalties provided by section 115-38, and the fact that a partner's name is signed on the return shall be prima facie evidence that such partner is authorized to sign the return on behalf of the partnership. All provisions of this chapter relating to returns shall be applicable to partnership returns except as specifically otherwise stated in this section.

**Sec. 121-30. Returns by persons making payments.** By duly promulgated regulations the commissioner may require that any individual, partnership, corporation, joint stock company, association, insurance company, or other person, being a resident or having a place of business in this Territory, in whatever capacity acting, including lessees or mortgagors of real and personal property, fiduciaries, employers and all officers and employees of the Territory or of any political subdivision thereof, having the control, receipt, custody, disposal or payment of any annuity or interest on deposits or funds held in trust, including taxable income from endowment policies, other interest (except interest coupons payable to bearer), dividends, wages, rentals, royalties, premiums, or other emoluments, gains, profits and income, paid or payable during any year to any person, shall, on such date or dates as the commissioner shall from time to time designate, make a

return to the commissioner furnishing the information required by the regulations.

**Sec. 121-31. Estimates; tax payments; returns.** (a) (1) Individuals and corporations, but not estates or trusts, shall annually furnish the commissioner with a declaration of estimated tax for the current taxable year. Declarations of estimated tax shall, except as otherwise provided by regulation, be governed by the provisions as to returns contained in sections 121-28, 121-32, and 121-33. The declaration shall be filed, in the case of individuals on the calendar year basis on or before April 20, and in the case of corporations on the calendar year basis on or before September 20. In the case of a husband and wife who are entitled to make a joint declaration for federal purposes a single declaration may be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and several; if a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either the husband or the wife or may be divided between them.

(2) Each individual shall transmit, with his declaration, payment of one-quarter of the estimated tax for the current taxable year. In determining this quarterly payment and all other installments, there first shall be deducted from the total estimated tax the amount of estimated tax withholding or collection at source for the taxable year. Thereafter, on the twentieth day of June and September, the individual shall pay one-quarter of the estimated tax. The fourth quarter of the estimated tax shall be paid by January 20 of the year following the taxable year for which the estimate was made.

(3) Each corporation shall transmit, with its declaration, payment of one-half of the estimated tax for the current taxable year. The second half of the estimated tax shall be paid by January 20 of the year following the taxable year for which the estimate was made.

(4) Individuals and corporations operating on a fiscal year basis shall make similar estimates and tax payments, on or before the twentieth day of the fourth month of the fiscal year in the case of individuals and the ninth month of the fiscal year in the case of corporations, and periodically thereafter so as to conform to the payments and returns required in the case of those on a calendar year basis.

(5) The commissioner may by regulation excuse individuals from filing an estimate in those cases where the gross income and exemptions are such that no tax is expected to accrue under this chapter, or are such that substantially all the tax will be collected through tax withholding or at the source.

(6) In the case of a corporation, the commissioner may excuse the filing of an estimate and the payment of estimated tax if he is satisfied that less than fifteen per cent of the corporation's business for the taxable year will be attributable to the Territory. For the purposes of this paragraph, fifteen percent of a corporation's

business shall be deemed attributable to the Territory if fifteen per cent or more of the entire gross income of the corporation (which for the purposes of this paragraph means gross income computed without regard to source in the Territory) is under the provisions of section 121-4 and the other provisions of this chapter attributable to the Territory.

(b) Returns for the taxable year shall be filed with the commissioner on or before the twentieth day of the fourth month following the close of the taxable year, and shall be accompanied by payment of the balance of the tax for the taxable year, or the entire tax for the taxable year, as the case may be. These returns shall be filed both by persons required to make declarations of estimated tax pursuant to this section and by persons not required to make declarations of estimated tax.

(c) At the election of the taxpayer, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

(d) A person who, under the regulations of the commissioner adopted pursuant to subsection (a) (5), is relieved of filing an estimate, shall if the regulations cease to apply by reason of a change of circumstances during the taxable year, file the required estimate on the first quarterly payment date prescribed for payment of estimated taxes, following such change of circumstances, and pay the estimated tax in equal installments computed by allocating the entire amount shown by the estimate for the current taxable year to the remaining quarterly payment dates.

(e) An amendment of an estimate may be filed, under regulations prescribed by the commissioner. If an amendment is filed, the remaining installments, if any, shall be ratably increased or decreased to reflect the increase or decrease in the estimate. The amended estimate may be accompanied by payment of the amount of underpayment, if any, and if so this shall be considered in determining the period of the underpayment as provided in subsection (g).

(f) If neither an estimate nor return is filed, or if one or both are filed but neither is filed until after the twentieth day of the month following the close of the taxable year, the penalties and interest provided by section 115-43 shall apply, and shall be computed in respect of all taxes, shown by the return made under subsection (b) of this section or determined by the commissioner, with the interest beginning the first day of the first month following the date prescribed for filing the estimate.

(g) If an estimate or return is filed on or before the twentieth day of the month following the close of the taxable year, the penalties and interest provided by section 115-43 shall not apply in respect of the required payments of estimated tax but shall apply nevertheless for any delinquency, negligence or other fault in respect of the return and payment required by subsection (b) of this section. In respect of the required payments of estimated tax, there shall be added to and become a part of the tax imposed

by this chapter, and collected as such, in lieu of the penalties and interest provided by section 115-43, an amount determined at the rate of eight per cent per annum upon any amount of underpayment (determined under paragraphs (1) and (3) for the period of the underpayment (determined under paragraph (2) ). That is:

(1) For purposes of this subsection, the amount of the underpayment shall be the excess of —

(i) The amount of the installment which would be required to be paid if the estimated tax were equal to 70 per cent (50 per cent in the case of corporations) of the tax shown on the return for the taxable year or, if no return is filed, 70 per cent (50 per cent in the case of corporations) of the tax for such year, over

(ii) The amount, if any, of the installment paid on or before the last date prescribed for such payment.

(2) The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier —

(i) The 20th day of the fourth month following the close of the taxable year.

(ii) With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under paragraph (1)

(i) for such installment date.

(3) Notwithstanding the provisions of the preceding paragraphs, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds whichever of the following is the lesser —

(i) The amount which would have been required to be paid on or before such date if the estimated tax were whichever of the following is the least —

(A) The tax shown on the return of the taxpayer for the preceding taxable year, if a return showing a liability for the tax was filed by the taxpayer under the income tax law of 1957 for the preceding taxable year and such preceding year was a taxable year of twelve months, or

(B) An amount equal to the tax computed on the basis of the facts shown on the taxpayer's return for, and the law applicable to, the preceding taxable year, if a return for such preceding year was filed by the taxpayer under the income tax law of 1957, but at the rates applicable to the taxable year and on the basis of an individual taxpayer's status with respect to personal exemptions under section 121-11 for the taxable year, or

(C) An amount equal to seventy per cent (fifty per cent in the case of corporations) of the tax for the taxable year computed by placing on an annualized basis the adjusted gross income and taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. For purposes of this subparagraph, the adjusted gross income and taxable income shall be placed on an annualized basis by —

First, multiplying by 12 (or, in the case of a taxable year of less than twelve months, the number of months in the taxable year) the adjusted gross income, or the taxable income (computed without deduction of personal exemptions), for the months in the taxable year ending before the month in which the installment is required to be paid,

Second, dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls, and

Third, deducting from such amount, in the case of computation of taxable income of individuals, the deductions for personal exemptions allowable for the taxable year (such personal exemptions being determined as of the last date prescribed for payment of the installment); or

(ii) An amount equal to 90 per cent (65 per cent in the case of corporations) of the tax computed, at the rates applicable to the taxable year, on the basis of the actual adjusted gross income and taxable income for the months in the taxable year ending before the month in which the installment is required to be paid.

(h) The amounts of taxes withheld from wages or collected at source shall be deemed payments of estimated tax, and an equal part of any such amount shall be deemed paid on each installment date for the taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld or collected, in which case the amounts so withheld or collected shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld or collected.

**Sec. 121-32. Returns; form, verification and authentication, time of filing.** Returns shall be in such form as the commissioner may prescribe from time to time and shall be verified by written declarations that the statements therein made are subject to the penalties prescribed in section 115-38. Corporate returns shall be authenticated by the signature of the president, vice president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized so to act, under the penalties prescribed by section 115-38. The fact that an individual's name is signed on the corporation return shall be prima facie evidence that such

individual is authorized to sign the return on behalf of the corporation.

The commissioner may grant a reasonable extension of time for filing returns under such rules and regulations as he shall prescribe. Except in the case of persons who are outside the United States, no such extension shall be for more than six months.

**Sec. 121-33. Same; place for filing.** Returns shall be filed with the collector for the taxation division in which is located the legal residence or principal place of business of the person making the return, or, if such person has no legal residence or principal place of business in the Territory, then with the collector at Honolulu.

**Sec. 121-34. Persons in military service.** The collection from any person in the military service of any tax on the income of such person, whether falling due prior to or during his period of military service (which term, as used in this section, shall have the same meaning as in the Soldiers' and Sailors' Civil Relief Act of 1940, as amended), shall be deferred for a period extending not more than six months after the termination of his period of military service if such person's ability to pay such tax is materially impaired by reason of such service. No interest on any amount of tax, collection of which is deferred for any period under this section, and no penalty for nonpayment of such amount during such period, shall accrue for such period of deferment by reason of such nonpayment. The running of any statute of limitations against the collection of such tax by distraint or otherwise shall be suspended for the period of military service of any individual the collection of whose tax is deferred under this section, and for an additional period of nine months beginning with the day following the period of military service.

**Sec. 121-35. Federal returns and assessments, when copies are required.** (a) In prescribing the form of return the commissioner may require that a person who is required to file a federal income tax return include in his return a reconciliation of the return with the person's federal return, or that he furnish with the return and as a part thereof a copy of the federal return.

(b) It shall be the duty of every person who is required by section 121-26 to make a return, to report to the commissioner, as to any taxable year governed by the income tax law of 1957, if (1) the amount of taxable income as returned to the United States is changed, corrected or adjusted by an officer of the United States or other competent authority, or (2) a change in taxable income results from a renegotiation of a contract with the United States or a subcontract thereunder, or (3) a recomputation of the income tax imposed by the United States under the Internal Revenue Code results from any cause, or (4) an amended income tax return is made to the United States. The report shall be made within ninety days after the change, correction, adjustment or recomputation is finally determined or the amended return is filed, as the case may be, but in any event, even if such change, correction,



adjustment or recomputation has not been finally determined or the ninety days have not elapsed, such person shall make a report thereof to the commissioner at the time of filing his next return under this chapter.

(c) Whenever, in the opinion of the commissioner, it is necessary to examine any federal income tax return of any taxpayer or any determination, assessment, or report related thereto, the commissioner may compel the taxpayer to produce for inspection a copy of any federal return, copies of all statements and schedules in support thereof, and copies of all determinations, assessments and reports related thereto.

**Sec. 121-36. Records and special returns.** (a) **Records.** Every person liable to any tax imposed by this chapter or for the collection or deduction thereof at source, shall keep full, complete, regular and accurate books of account in which all his transactions shall be entered in regular order; **provided** that the commissioner may, by regulation, provide for the keeping of simpler accounts in cases where, by reason of the smallness of the income or otherwise, undue hardship or expense will be caused by the keeping of full books of account.

(b) **Special returns and statements.** Whenever it is necessary, in the judgment of the commissioner, he may require any taxpayer, or person liable for the collection of deduction of tax at source, by notice served upon him, to make such returns or render such signed statements as the commissioner deems sufficient to show whether or not the taxpayer or other person is liable under this chapter.

**Sec. 121-37. Distortion of income.** When a taxpayer so conducts business as either directly or indirectly to benefit stockholders thereof, or any other person interested therein, by selling products or the goods or commodities in which he deals at less than the fair price that could be obtained for them, or where a corporation, a substantial portion of the capital stock of which is owned either directly or indirectly by another corporation, acquires or disposes of the products of the corporation so owning a substantial portion of its stock in such manner as to create a loss or improper income to either of the corporations, or where a partnership or individual owns an interest in another corporation or business either directly or indirectly and acquires and disposes of the products of such other business in such manner as to create a loss or improper income to either of the businesses, and generally in all cases where different forms of business enterprise are used in conjunction with one another for the purpose, among others, of diverting profits reasonably and properly made by one factor agency or segment of the business to another, the commissioner shall be authorized to determine the amount of tax upon either or both of the enterprises for the taxable year, having due regard to the reasonable profits which but for such arrangement, understanding, business device or organization might or could have accrued to either or both of such enterprises.

**Sec. 121-38. Penalties.** Penalties and interest shall be added to and become part of the tax, when and as provided by sections 115-43 and 121-31. The penalties and interest provided by section 115-43 shall apply to employers as well as taxpayers.

**Sec. 121-39. Failure to keep records, render returns, or make reports, misdemeanors.** (a) Every person required by sections 121-26, 121-28, 121-29, and 121-31, or any such section, to make a declaration of estimated tax or a return, who wilfully fails to make such declaration or return at the time or times required by law, or wilfully fails to authenticate the declaration or return, if made, as required by law, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) Every person required by section 121-12 (b) or section 121-35 (b) to make a report, who wilfully fails to make such report at the time or times required by law shall be fined not more than \$1,000 or imprisoned not more than six months, or both.

(c) Every person required, by regulations duly promulgated under section 121-30 or by notice duly served under section 121-36 (b), to supply any information, who wilfully fails to supply such information at the time or times required by the commissioner, shall be fined not more than \$50 for the first offense and \$100 for the second and each succeeding offense.

(d) Every person required by section 121-36 (a) to keep any records who wilfully fails to keep such records shall be fined not more than \$500 or imprisoned not more than six months, or both.

(e) The penalties provided by this section and sections 121-16 and 121-20 shall apply to any person, whether acting as principal, agent, officer or director, for himself, itself or another person, and shall apply to each single violation. Such penalties shall be in addition to other penalties provided by law.

**Sec. 121-40. Aiding, abetting.** Any person wilfully aiding, abetting or assisting in any manner whatsoever any person to commit an act constituted a misdemeanor by sections 121-16, 121-20, and 121-39 or any of them shall be guilty of a misdemeanor and shall be punished in the manner provided by law for the principal offense.

**Sec. 121-41. Procedure upon failure to file return.** If any taxpayer or employer liable to make and file a return under the provisions of this chapter fails, neglects or refuses to make and file a return as required within the time prescribed, or declines to authenticate a return if made, the commissioner or his deputy or any person appointed by the commissioner so to do, shall make a return for such taxpayer or employer from the best information obtainable and shall levy and assess against such taxpayer or employer the tax upon the amount of taxable income, or the tax required to be withheld from wages and paid over, as shown by such return, to which shall be added the penalties and interest provided by section 115-43. Such assessment shall be presumed to

be correct until and unless, upon an appeal duly taken as provided in this chapter, the contrary shall be clearly proved by such taxpayer or employer and the burden of proof upon appeal shall be upon the taxpayer or employer to disprove the correctness of the assessment. Notice of such assessment shall be given, and an appeal therefrom may be taken, in the manner and within the time provided in section 121-42 (b) and section 121-46.

**Sec. 121-42. Audit of return; procedure; additional taxes.** (a) **Audit.** The commissioner or a responsible person designated by him to act in the premises for the purpose of verification or audit of a return made by the taxpayer or employer, or for the purpose of making a return where none has been made, is authorized and empowered to examine all account books, bank books, bank statements, records, vouchers, copies of federal tax returns, and any and all other documents and evidences having any relevancy to the determination of the income or wages as required to be returned under this chapter, and he may employ his powers under section 115-11 for such purposes.

(b) **Additional taxes.** If the commissioner discovers from the examination of the return or otherwise that income, or the liability of an employer in respect of wages, or any portion thereof, has not been assessed, he may assess the same and give notice to the taxpayer or employer of the assessment, and he shall thereupon have an opportunity within thirty days to confer with the commissioner as to the proposed assessment. After the expiration of thirty days from such notification the commissioner shall assess the income of the taxpayer, or the liability of the employer in respect of wages, or any portion thereof which he believes has not heretofore been assessed, and shall give notice to the taxpayer or employer of the amount of the tax and interest and penalties if any, and the amount thereof shall be paid within twenty days after the date the notice was mailed, properly addressed to the taxpayer or employer at his last known address or place of business.

**Sec. 121-43. Jeopardy assessments, security for payment, etc.** The provisions of section 115-29 shall apply to the taxes imposed by this chapter, both in respect of taxpayers and employers.

**Sec. 121-44. Credits and refunds.** (a) If the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the overpayment shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the amount of the credit shall be refunded as provided in this section; **provided** that if the person entitled to the refund is delinquent in the payment of any tax, the auditor, upon demand of the collector and after notice to such delinquent taxpayer, shall withhold the amount of such delinquent taxes, together with penalties and interest thereon, from the amount of such refund and pay the same to the collector. Within the meaning of this paragraph, each amount of tax deducted and withheld from a taxpayer's wages is

an installment of taxes paid by the taxpayer. A refund or credit shall be made to an employer only to the extent that the amount of overpayment claimed by the employer as a credit or refund was not deducted and withheld by the employer.

(b) The provisions of this section do not apply in the case of a payment made pursuant to an assessment by the commissioner under section 121-41, or section 121-42, paragraph (b). No refund or overpayment credit may be had under this section in any event unless the original payment of the tax was due to the law having been interpreted or applied in respect of the taxpayer concerned differently than in respect of the taxpayers generally. As to all tax payments for which a refund or credit is not authorized by this section (including without prejudice to the generality of the foregoing cases of unconstitutionality) the remedies provided by appeal or under section 34-24 are exclusive. However, nothing in this subsection shall be deemed applicable to a credit or refund authorized by sections 121-12, 121-21, or 121-23.

(c) Any refund earned under this section shall be made upon a requisition of the commissioner on the territorial auditor, who shall issue his warrant in the form prescribed by section 34-48 on the territorial treasurer which shall be paid out of the income tax reserve fund in the next succeeding paragraph hereof created.

(d) There is hereby appropriated, from the general revenues of the Territory, not otherwise appropriated, the sum of \$7,500 which shall be set aside as a special fund to be known as the income tax reserve fund, the same to be subject to the warrants of the auditor of the Territory, upon the treasurer of the Territory, as in and by this chapter provided. The commissioner, in his discretion, from time to time, may deposit taxes collected by him under the provisions of this chapter in the territorial treasury to the credit of the income tax reserve fund, so that there shall be maintained at all times a fund of \$7,500.

**Sec. 121-45. Limitation period for assessment, levy, collection or credit.** (a) **General rule.** The amount of income taxes imposed by this chapter (also the amount of income taxes imposed by any preceding law of the Territory) and the liability of any employer in respect of wages, shall be assessed or levied and the overpayment, if any, shall be credited within five years after filing of the final return for the taxable year, or the return for the taxable year, as the case may be, and no proceeding in court without assessment for the collection of such taxes or the enforcement of such liability shall be begun after the expiration of such period.

(b) **Exceptions; fraudulent return or no return.** In the case of a false or fraudulent return with intent to evade tax or liability, or of a failure to file return, the tax or liability may be assessed or levied at any time; **provided**, that in the case of a return claimed to be false or fraudulent with intent to evade tax or liability, the determination as to such claim must first be made by a judge of the circuit court for or in the circuit within which the taxpayer or employer has his residence or principal place of business, or if

none in the Territory then in the first circuit, upon petition filed by the commissioner, which petition and other pleadings and proceedings in the matter shall be governed and conducted in accordance with statutory and other requirements relating to proceedings in equity, including all rights to appeal allowed in such proceedings, and no assessment or levy of the tax or liability after the expiration of the five-year period shall be made unless so provided in the final decree entered in the proceedings.

(c) **Extension by agreement.** Where, before the expiration of the time prescribed in paragraph (a) of this section for the assessment, levy and collection of the tax or liability, both the commissioner and the taxpayer or employer have consented in writing to its assessment or levy after such date, the tax or liability may be assessed or levied or the overpayment, if any, may be credited at any time prior to the expiration of the period previously agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

## APPEAL

**Sec. 121-46. Appeals.** Any person aggrieved by any assessment of the tax or liability imposed by this chapter may appeal from the assessment in the manner and within the time hereinafter set forth. Appeal may be made either to the divisional board of review or to the tax appeal court.

If the appeal is first made to the board, the appeal shall either be heard by the board or be transferred to the tax appeal court for hearing at the election of the taxpayer or employer, and if heard by the board an appeal shall lie from the decision thereof to the tax appeal court and to the supreme court in the manner and with the costs provided by chapter 116. The supreme court shall prescribe forms to be used in such appeals which shall be as nearly identical as practicable with the forms prescribed or permitted by law in the case of property tax appeals; **provided**, that such forms shall show the amount of taxes or liability upon the basis of the taxpayer's computation of his taxable income or the employer's computation of his liability, the amount upon the basis of the assessor's computation, the amount upon the basis of the decisions of the board of review and tax appeal court, if any, and the amount in dispute. If or when the appeal is filed with or transferred to the tax appeal court, the court shall proceed to hear and determine the appeal, subject to appeal to the supreme court as is provided in chapter 116.

Any taxpayer or employer appealing from any assessment of income taxes or liability shall lodge with the assessor or assistant assessor a notice of the appeal in writing, stating the ground of his objection to the additional assessment or any part thereof, which notice of appeal shall be filed at any time within twenty days subsequent to the date when the notice was mailed properly addressed to the taxpayer or employer at his last known residence or place

of business. Except as otherwise provided, the manner of taking such appeal, the costs applicable thereto, and the hearing and disposition thereof, including the distribution of costs and of taxes paid by the taxpayer or employer pending the appeal, shall be as provided in chapter 116.

## GENERAL PROVISIONS

**Sec. 121-47. Assessments, etc., prima facie proof.** The effect of the notices of assessments and records prepared by or under the authority of the commissioner shall be as set forth in sections 115-25 and 121-41.

**Sec. 121-48. Disclosure of returns unlawful; penalty.** It shall be unlawful for any officer or employee of the Territory to make known intentionally information imparted by any income tax return or estimate made under sections 121-26, 121-28, 121-29 and 121-31 of this chapter or wilfully to permit any income tax return or estimate so made or copy thereof to be seen or examined by any person other than the taxpayer or his authorized agent or persons duly authorized by the Territory in connection with their official duties, except as provided by law, and any offense against the foregoing provisions shall be punished by a fine not exceeding \$500 or by imprisonment not exceeding one year, or both.

**Sec. 121-49. Reciprocal supplying of tax information.** Notwithstanding the provisions of section 121-48, the commissioner may permit the secretary of the treasury of the United States, or the proper officer of any state or territory imposing an income tax upon incomes of persons taxable under this chapter, or the authorized representatives of such federal, state or territorial officer, to inspect the income tax returns and estimates of any such person. The commissioner may also furnish to such authorized persons an abstract of an income tax return or estimate or supply such persons with information concerning any item of income contained in a return or disclosed by the report of an investigation of the income or return of a taxpayer. Such permission shall be granted or such information furnished to such officer or to his authorized representative only if the statutes of the United States, or of such state or territory, as the case may be, grant substantially similar privileges to the proper officers of the Territory charged with income tax administration.

**Sec. 121-50. Rules and regulations.** Except as otherwise provided in this chapter, the commissioner shall prescribe and have printed all needful rules and regulations for the enforcement of this chapter and such rules and regulations so made shall have the force and effect of law if they be not in conflict with the express statutory provisions to which the same are applicable.

**Sec. 121-51. Lien on land.** The provisions of section 117-39 are hereby made applicable to this chapter. For such purpose, employers and corporate officers made liable by section 121-19 shall be deemed taxpayers.

**Sec. 121-52. Taxes territorial realizations.** All income taxes shall be for the use of the Territory and shall be paid into the territorial treasury at such times as the treasurer shall direct.

**Sec. 121-53. Severability.** If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of this chapter, and the application of such provisions to other persons or circumstances shall not be affected thereby."

**SECTION 3.** Chapter 117 of the Revised Laws of Hawaii 1955, as amended by Act 34 of the Session Laws of 1957, is hereby amended in the following respects:

(a) **Section 117-3** is amended by deleting from the last paragraph the words "or from the sale of real property;" and inserting in lieu thereof the following:

"or, except as otherwise provided, from the sale of land in fee simple, improved or unimproved, dividends as defined by chapter 121;"

(b) **Section 117-4** is deleted.

(c) **Section 117-10** is amended by deleting therefrom "\$1," and inserting in lieu thereof the following:

"\$2.50 (except when a \$1 fee is prescribed by section 117-11)".

(d) **Section 117-11** is amended by adding to the first paragraph of the proviso, designated (a), the following sentence:

"All persons who are entitled to the protection of this paragraph further shall be entitled to a license under section 117-10, and an annual renewal under this section, upon payment of the sum of \$1 for each license or renewal and without payment of the additional fee required by section 117-14.6."

(e) **Section 117-14**, subsection (a) (1), is amended as follows:

(1) By deleting from the second paragraph the word "canneries" and inserting in lieu thereof the following:

"pineapple canneries (including canning of pineapple juice)".

(2) By deleting from the second paragraph the words "one and one-half per cent" and inserting in lieu thereof the following:

"one per cent".

(f) **Section 117-14**, subsection (a), is further amended by deleting the numbered paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) If any person liable for the tax on manufacturers shall ship or transport his products, or any part thereof, out of the Territory, whether in a finished or unfinished condition, or shall sell the same for delivery outside of the Territory (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), the value of the products in the condition or form in which they exist immediately before entering interstate or foreign commerce, determined as hereinafter provided, shall be the basis for the assessment of the tax imposed by this subsection. This tax shall be due and payable as of the date of entry of such products into interstate or foreign commerce, whether the products are then

sold or not. The commissioner shall determine the basis for assessment, as provided by this paragraph, as follows:

(i) If the products at the time of their entry into interstate or foreign commerce already have been sold, the gross proceeds of sale, less the transportation expenses, if any, incurred in realizing the gross proceeds for transportation from the time of entry of the products into interstate or foreign commerce, including insurance and storage in transit, are the measure of the value of the products.

(ii) If the products have not been sold at the time of their entry into interstate or foreign commerce, and in cases governed by paragraph (i) in which the products are sold under circumstances such that the gross proceeds of sale are not indicative of the true value of the products, the value of the products constituting the basis for assessment shall correspond as nearly as possible to the gross proceeds of sales for delivery outside the Territory, adjusted as provided in paragraph (i), or if sufficient data are not available, sales in the Territory, of similar products of like quality and character and in similar quantities, made by the taxpayer (unless not indicative of the true value) or by others. Sales outside the Territory, adjusted as provided in paragraph (i), may be considered when they constitute the best available data. The commissioner shall prescribe uniform and equitable rules for ascertaining such values.

(iii) At the election of the taxpayer and with the approval of the tax commissioner, the taxpayer may make his returns under paragraph (i) even though the products have not been sold at the time of their entry into interstate or foreign commerce.

(iv) In all cases in which products leave the Territory in an unfinished condition the basis for assessment shall be adjusted so as to deduct such portion of the value as is attributable to the finishing of the goods outside the Territory.

(4) Notwithstanding any other provision of this subsection, in the case of a manufacturer liable to tax at the two and one-half per cent rate who shall ship or transport his products, or any part thereof, out of the Territory, whether in a finished or unfinished condition, or shall sell the same for delivery outside of the Territory (for example, consigned to a mainland purchaser via common carrier f.o.b. Honolulu), the basis for the assessment of the tax shall not exceed the price at which such products are sold or offered for sale by the manufacturer, less all transportation, selling and distribution expenses of the manufacturer incurred or reasonably required to be incurred with respect thereto and a reasonable allowance for contingencies and for normal return attributable to the marketing of such products."

(g) **Section 117-14**, subsection (b) (1), is amended as follows:



(1) By deleting the words "two and one-half per cent" and inserting in lieu thereof the following:

"three and one-half per cent".

(2) By deleting the words "one per cent" and inserting in lieu thereof the following:

"three-quarters of one per cent".

(3) By deleting the words "one and one-half per cent" and inserting in lieu thereof the following:

"one per cent".

(h) **Section 117-14**, subsection (b) (1), is further amended by inserting after the words "provided, that" the following:

"insofar as certain retailing is taxed by section 117-14.6, the tax shall be that levied by section 117-14.6, and".

(i) **Section 117-14**, subsection (b), as amended by Act 34 of the Session Laws of 1957, is further amended by deleting from paragraph (4) thereof the words "this subsection and subsection (a).", appearing at the end of the paragraph, and inserting in lieu thereof the following:

"this subsection, subsection (a), and section 117-14.6."

(j) **Section 117-14**, subsection (b), is further amended by adding thereto a new paragraph to be appropriately numbered and to read as follows:

"([6]) The commissioner, by regulation, may provide that a seller may take from the purchaser of tangible personal property a certificate, in such form as the commissioner shall prescribe, certifying that the sale is a sale at wholesale. If such certificate is so provided for by regulation of the commissioner: (a) any purchaser who shall furnish such a certificate shall be obligated to pay to the seller, upon demand, if the sale in fact is not at wholesale, the amount of the additional tax which by reason thereof is imposed upon the seller; and (b) the absence of such a certificate shall, unless the sales of the business are exclusively at wholesale, in itself give rise to the presumption that the sale is not at wholesale."

(k) **Section 117-14**, subsection (c) (1), is amended by deleting therefrom the words "two and one-half per cent" and inserting in lieu thereof the words:

"three and one-half per cent".

(l) **Section 117-14**, subsection (c) (1), is further amended by changing the period at the end of the first sentence to a semicolon and adding the following:

"**provided**, that insofar as the business of contracting is taxed by section 117-14.6, which relates to certain retailing, the tax shall be that levied by section 117-14.6."

(m) **Section 117-14**, subsection (c) (2), is amended as follows:

(1) By inserting after the words "In computing the tax levied under this subsection (c)" and before the comma, the following:

"or section 117-14.6".

(2) By deleting the words "under subsection (c) (1) on another taxpayer," and inserting in lieu thereof the following:

"under subsection (c) (1) or section 117-14.6, on another taxpayer who is a contractor, as defined, in respect of his business as such,".

(n) **Section 117-14** is amended by adding to subsection (c) a new paragraph to read as follows:

"(4) A person who, as a business or as a part of a business in which he is engaged, erects, constructs, or improves any building or structure, of any kind or description, or makes, constructs or improves any road, street, sidewalk, sewer or water system, or other improvements on land held by him (whether held as a leasehold, fee simple, or otherwise), shall upon the sale or other disposition of the land or improvements, even if the work was not done pursuant to a contract, be liable to the same tax as if engaged in the business of contracting, unless he shall show that at the time he was engaged in making such improvements it was, and for the period of at least one year after completion of the building, structure or other improvements, it continued to be his purpose to hold and not to sell or otherwise dispose of the land or improvements. The tax in respect of such improvements shall be measured by the amount of the proceeds of such sale or other disposition that is attributable to the erection, construction or improvement of such building or structure, or the making, constructing or improving of such road, street, sidewalk, sewer or water system, or other improvements. The measure of tax in respect of the improvements shall not exceed the amount which would have been taxable had such work been performed by another, subject as in other cases to the deductions allowed by paragraph (2) of this subsection. Upon the election of the taxpayer this paragraph may be applied notwithstanding the improvements were not made by the taxpayer, or were not made as or as a part of a business, or were made with the intention of holding the same. However, this paragraph shall not apply in respect of any proceeds that constitute or are in the nature of rent; all such gross income shall be taxable under subsection (h)."

(o) **Section 117-14**, subsection (d), is amended by deleting therefrom the words "two and one-half per cent" and inserting in lieu thereof the following:

"three and one-half per cent".

(p) **Section 117-14**, subsection (e), is amended by deleting therefrom the words "two and one-half per cent" and inserting in lieu thereof the following:

"three and one-half per cent".

(q) **Section 117-14**, subsection (f), is amended by deleting therefrom the words "two and one-half per cent" and inserting in lieu thereof the following:

"three and one-half per cent".

(r) **Section 117-14**, subsection (g), is amended by deleting therefrom the words "two and one-half per cent" and inserting in lieu thereof the following:

"three and one-half per cent".

(s) **Section 117-14**, subsection (h), is amended by deleting therefrom

the words "two and one-half per cent" and inserting in lieu thereof the following:

"three and one-half per cent".

(t) **Section 117-14.5** is amended by deleting therefrom the words "two and one-half per cent" and inserting in lieu thereof the following:

"three and one-half per cent".

(u) A new section, to be numbered 117-14.6, is hereby inserted, to read as follows:

**"Sec. 117-14.6. Tax on certain retailing.** (a) This section relates to certain retailing in the Territory, as follows:

(1) This section relates to the sale of tangible personal property, for consumption or use by the purchaser and not for resale, the renting of tangible personal property, and the rendering of services by one engaged in a service business or calling, as defined, to a person who is not purchasing the services for resale, but does not relate to the sale or rental of tangible personal property or the rendering of services to the Territory, its political subdivision or agencies or instrumentalities of the Territory or a political subdivision, or to the United States or its agencies or instrumentalities, or to a corporation, organization or other person designated in section 117-20 who is not subject to the tax imposed by this chapter, or to a person licensed under this chapter in connection with his business.

(2) This section relates to the business of a contractor, as defined, but does not relate to contracting with, or any gross income or proceeds of a subcontractor if the principal contract is with, the Territory, its political subdivisions, or agencies or instrumentalities of the Territory or a political subdivision, or with the United States or its agencies or instrumentalities, or with a person designated in section 117-20 who is not subject to the tax imposed by this chapter, or with a person licensed under this chapter in connection with his business.

(3) This section relates to furnishing of transient accommodations in a hotel, apartment hotel, or other place in which lodgings are regularly furnished to transients for a consideration which includes the rendering of services.

(b) There is hereby levied, and shall be assessed and collected annually, a privilege tax against persons engaging or continuing within the Territory in the retailing to which this section relates, on account of such retailing activities, as set forth in subsection (a), equal to three and one-half per cent of the gross proceeds of sale or gross income received or derived from such retailing. Persons on whom a tax is imposed by this section hereinafter are called 'retailers'.

(c) Every person upon whom a tax is levied by this section shall inform the tax commissioner, at the time of obtaining his license, or at the time of renewal thereof, that he is engaged in a retailing activity to which this section relates, and the same shall be noted upon the license. If a taxpayer, after obtaining his license, or a renewal thereof, engages in a retailing activity to which this section

relates, he having been previously not engaged in any such activity, he thereupon shall submit his license to the tax commissioner for the making of an appropriate notation thereon. In addition to the fees prescribed by section 117-10, except as otherwise provided by section 117-11, there shall be paid by the retailer, at the time that the notation upon his license hereby required is made, a fee of 50 cents. Any person who by this subsection is required to have noted on his license that he is engaged in a retailing activity to which this section relates and who fails to do so, shall be subject to the provisions of section 117-43 the same as if he had no license.

(d) No retailer shall advertise or hold out to the public in any manner, directly or indirectly, that the tax imposed by this section is not considered as an element in the price to the consumer. Any person violating the provisions of this subsection shall be fined not more than \$50 for each offense.

(e) The provisions of this section shall not cause the tax upon a taxpayer, with respect to any item of his gross income, to exceed three and one-half per cent."

(v) **Section 117-16**, subsection (c), is amended as follows:

(1) By deleting therefrom the words "one per cent" and inserting in lieu thereof the following:

"three-quarters of one per cent".

(2) By deleting therefrom the words "two and one-half per cent" and inserting in lieu thereof the following:

"three and one-half per cent".

(3) By inserting after the words "under subsection (f) of section 117-14," the following:

"or levied on him as a retailer of services under section 117-14.6."

(w) **Section 117-16**, subsection (d), is amended by deleting therefrom the words "one per cent" and inserting in lieu thereof the following:

"three-quarters of one per cent".

(x) **Section 117-16**, subsection (e), is amended by inserting a comma after the words "subsection (f) of section 117-14" and adding after the comma the following:

"or under section 117-14.6,".

(y) **Section 117-20** is amended by amending the paragraph designated (b) to read as follows:

"Banks taxable under the provisions of chapter 127;"

(z) **Section 117-20** is further amended by amending the paragraph designated (k) to read as follows:

"(k) Building and loan associations taxable under the provisions of chapter 127;"

**SECTION 4.** Chapter 118 of the Revised Laws of Hawaii 1955 is hereby amended by amending **section 118-2** by deleting from paragraph (b) thereof the words "one per cent" and inserting in lieu thereof the following:

"three-quarters of one per cent".

**SECTION 5.** Chapter 119 of the Revised Laws of Hawaii 1955, as

amended by Act 34 of the Session Laws of 1957, is hereby amended by amending **section 119-4** by deleting therefrom the words "two and one-half per cent" and inserting in lieu thereof the following:

"three and one-half per cent".

**SECTION 6.** Chapter 122 of the Revised Laws of Hawaii 1955 is amended as follows:

(a) **Section 122-3** is amended by adding thereto the following paragraph:

"When funeral expenses, costs of administration or other charges against the estate of a decedent are not allocable to a particular property or transfer and are deductible from the estate of the decedent, there shall be included in the estate for this purpose any amount of property which, pursuant to this section, is deemed a taxable transfer."

(b) **Section 122-4** is amended by amending paragraph (c) to read as follows:

"(c) In any case of an allowance made pursuant to section 317-21, to the extent of any payments made out of principal; **provided**, that for the purposes of the tax imposed by sections 122-2 to 122-6, payments of such allowance shall be deemed to have been made out of principal only if and to the extent that the income of the estate accruing after death is insufficient to pay the same."

(c) **Section 122-5** is amended to read as follows:

**"Sec. 122-5. Rates; exempt amount.** When the beneficial interest in any property or income therefrom passes as above provided to or for the use of decedent's surviving spouse, the rate of the tax shall be at the following percentage rate of the market value of such property, received by such person in excess of \$20,000, viz:

2 per cent on amounts between .....	\$ 20,000 and \$ 35,000.
3 per cent on amounts between .....	35,000 and 50,000.
4 per cent on amounts between .....	50,000 and 100,000.
5 per cent on amounts between .....	100,000 and 250,000.
6 per cent on amounts over .....	250,000.

When the beneficial interest in any property or income therefrom passes as above provided to or for the use of decedent's father, mother, child, grandchild, or any child adopted as such in conformity with the laws of the Territory, the rate of the tax shall be at the following percentage rate of the market value of such property, received by each person in excess of \$5,000, viz:

1½ per cent on amounts between .....	\$ 5,000 and \$ 20,000.
3 per cent on amounts between .....	20,000 and 50,000.
4½ per cent on amounts between .....	50,000 and 100,000.
6 per cent on amounts between .....	100,000 and 250,000.
7½ per cent on amounts over .....	250,000.

In all other cases, the rate of tax on the market value of such property in excess of \$500 shall be as follows, viz:

3½	per cent on amounts between .....	\$ 500 and \$ 5,000.
6	per cent on amounts between .....	5,000 and 20,000.
7	per cent on amounts between .....	20,000 and 50,000.
8	per cent on amounts between .....	50,000 and 100,000.
9	per cent on amounts over .....	100,000."

(d) **Section 122-17** is amended by deleting from the first sentence thereof the following words and punctuation:

"if the tax is paid within twelve months from the date of death, a discount of five per cent shall be allowed and deducted from the tax, and"

**SECTION 7.** Chapter 124 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) **Section 124-2** is amended as follows:

(1) By deleting from subsection (b) the figure "\$1" and inserting in lieu thereof the following:

"\$2.50".

(2) By deleting from subsection (c) the figure "\$1" and inserting in lieu thereof the following:

"\$2.50".

(b) **Section 124-4** is amended by deleting therefrom the words "twelve per cent of the wholesale price" and inserting in lieu thereof the following:

"sixteen per cent of the wholesale price".

**SECTION 8.** Chapter 125 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) **Section 125-2** is amended by deleting from the second paragraph the figure "\$1" and inserting in lieu thereof the following:

"\$2.50".

(b) **Section 125-3** is amended by deleting the first two sentences ending at the bottom of page T-125 of the Revised Laws of Hawaii 1955, and inserting in lieu thereof the following:

"Every wholesaler or dealer shall, in addition to any other taxes provided by law, pay an excise tax, which is hereby imposed upon the sale or use of tobacco products, equal to twenty per cent of the wholesale price of each article or item of tobacco products sold by him, whether or not sold at wholesale, or if not sold then at the same rate upon the use by him."

**SECTION 9.** Chapter 126 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) **Section 126-1** is amended by adding thereto the following:

"However, this section shall not be deemed to exempt any public utility from employment taxes, or taxes imposed upon the purchase or use of tangible personal property, other than ad valorem taxes."

(b) **Section 126-2** is amended by inserting in the second sentence, in clause (b), after the words "actual amount of income taxes", a comma and the following:

"federal and territorial,".

(c) **Section 126-5** is amended by inserting in the first line after the words "rate, how determined." the following:

"(a)".

(d) **Section 126-5** is further amended by deleting from the second paragraph the first two lines and part of the third line, ending with the semicolon, and inserting in lieu thereof the following:

"If the ratio of the net income of the company to its gross income is fifteen per cent or less, the rate of the tax on gross income shall be five and one-half per cent;"

(e) **Section 126-5** is further amended by deleting the formula and the proviso which constitute the last three lines of the section, and inserting in lieu thereof the following:

" $x = (1.75 + 25r)\%$ ;

provided, that in no case governed by the formula shall 'x' be less than five and one-half per cent".

(f) **Section 126-5** is further amended by adding a new subsection to read as follows:

"(b) Notwithstanding subsection (a), the rate of the tax upon the portion of the gross income of a carrier of passengers by land which consists in passenger fares for transportation between points on a scheduled route, shall be five per cent. However, if such carrier has other public utility gross income the fares nevertheless shall be included in applying subsection (a) in determining the rate of tax upon the other public utility gross income."

**SECTION 10.** (a) Chapter 127 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

## "CHAPTER 127. TAXATION OF BANKS AND OTHER FINANCIAL CORPORATIONS.

**Sec. 127-1. Definitions.** As used in this chapter unless a different meaning appears from the context:

'Bank' means and includes any national banking association, any bank organized under the laws of the Territory, and any other corporation doing a banking business within the Territory under the authority of chapter 178.

'Building and loan association' means any corporation subject to the provisions of chapter 180, and any federal savings and loan association.

'Financial corporation' means any corporation domestic or foreign, other than a bank or building and loan association, which is a financial corporation within the meaning of section 5219 of the Revised Statutes of the United States, as amended (12 U.S.C. 548), or other similar law, doing business in the Territory and not subject to the taxes imposed by chapters 117 and 121, or not subject to one of said taxes, but shall not include an insurance company which pays the tax on premiums imposed by chapter 181.

'Income year' means that year, either the calendar year or

fiscal year, the income of which is the measure of the tax for the franchise tax year involved.

**Sec. 127-2. Imposition of tax on national banking associations; construction; exemption from other taxes, except real property tax.** (a) Every national banking association located in the Territory shall annually, as of January 1, pay a franchise tax according to, or measured by, its net income, to be computed as provided in section 127-4, at the rate there prescribed. The Territory is hereby adopting method numbered (4), authorized by section 5219, Revised Statutes of the United States, as amended (12 U.S.C. 548), or other similar law.

(b) The tax imposed by this chapter shall be in lieu of all other taxes imposed by the Territory or any political subdivision thereof on national banking associations, or on their activities, property, income, shares or dividends, except taxes which, by authority of the Congress of the United States, may be imposed in addition to those authorized by the above cited section 5219 of the Revised Statutes, as other similar law; **provided**, that nothing in this chapter shall be construed to exempt the real property of national banking associations from taxation to the same extent, according to its value, as other real property is taxed, or to preclude the inclusion of the dividends from national banking associations in the income of individuals taxable under chapter 121 to the same extent as are included dividends from domestic corporations.

(c) If the tax imposed by this chapter at the rate provided in section 127-4 is, for any year, higher than is authorized by law, then in such event the rate of the tax imposed by this chapter shall, for national banking associations only, be reduced for that year to such per cent (to be computed to the nearest hundredth of one per cent) as will cause the amount of the tax imposed on national banking associations under this chapter not to exceed the authorized amount.

**Sec. 127-3. Imposition of tax on other banks, building and loan associations and financial corporations.** Every bank, other than a national banking association, and every building and loan association and financial corporation, located or doing business in the Territory, shall annually, as of January 1, pay a franchise tax measured as, and at the rate, provided in section 127-4.

**Sec. 127-4. Measure and rate of tax.** (a) The measure of the tax imposed by this chapter is the entire net income from all sources for the calendar year preceding January 1, or in the case of a taxpayer operating on a fiscal year basis, for the fiscal year in which January 1 occurs. The tax imposed by this chapter is hereby fixed at ten per cent thereof.

(b) The 'entire net income from all sources' shall be determined in the same manner as the 'taxable income' of a corporation, as provided by chapter 121, with the following changes and adjustments:

(1) There is included in gross income interest received upon



the obligations of the United States or its possessions, or upon securities issued under the authority of an Act of Congress, or upon state, territorial, municipal, county, or other bonds or securities whether or not the income from such obligations, bonds or securities, is tax free. Section 121-5, subsection (a), clauses (1), (6) and (7) do not apply.

(2) Section 121-2, subsections (c), (d) and (e) do not apply.

(3) In lieu of section 121-3, it is provided that there shall be excluded the gross income from property owned, trade or business carried on, and other sources outside the Territory.

(4) Section 121-4 does not apply. The income excluded pursuant to paragraph (3) shall be determined by an allocation and separate accounting. Losses from property owned outside the Territory and from other sources outside the Territory shall not be deducted. Reserves shall be allocated to the Territory by the application of a fraction, the numerator of which consists of the gross income included in determining the 'entire net income from all sources' pursuant to this chapter and the denominator of which consists in the gross income similarly ascertained but without regard to whether from sources within or without the Territory.

(5) Deductions connected with income which by this chapter is required to be included in the computation of net income shall be allowed, but deductions connected with income which by this chapter is not to be included in the computation of net income shall not be allowed. Section 121-5, subsection (e), clause (1) does not apply.

(6) One half of such amount of capital gain as, under the Internal Revenue Code, is entitled to the alternative tax treatment, is deductible in the determination of net income.

(7) Section 166 of the Internal Revenue Code does not apply, except the provisions as to the basis for determining the amount of the deduction for a bad debt. Section 593 of the Internal Revenue Code does not apply. In lieu of the cited sections of the Internal Revenue Code, debts ascertained to be worthless and charged off on the books of the taxpayer within the income year may be deducted, or in the discretion of the commissioner a reasonable addition to a reserve for bad debts; **provided**, that when satisfied that a debt is recoverable only in part, the commissioner may allow such debt to be charged off in part.

(8) Federal income taxes upon income derived or received from sources in the Territory may be deducted.

(9) In the case of any life insurance company (as defined by the Internal Revenue Code), which is determined to be a financial corporation as defined by this chapter, sections 802, 804 and 818 of the Internal Revenue Code do not apply. The total of the deductions allowed by sections 805 and 812 of the Internal Revenue Code shall not exceed the amount of the required interest, as defined by section 805, subsections (c) and (d), of the Internal Revenue Code.

**Sec. 127-5. Returns; payment of tax.** Returns made on the basis of the calendar year shall be made and filed, and the tax imposed by this chapter shall be paid, on or before April 20 following the close of the calendar year. Returns made on the basis of a fiscal year shall be made and filed, and in such case the tax imposed by this chapter shall be paid, on or before the twentieth day of the fourth month following the close of the fiscal year.

A taxpayer may elect to pay the tax in four equal installments, in which case the first installment shall be paid on the date prescribed for the payment of the tax, the second installment shall be paid on the twentieth day of the second month, the third installment on the twentieth day of the fifth month and the fourth installment on the twentieth day of the eighth month after such date.

**Sec. 127-6. Chapter 121, applicable.** All of the provisions of chapter 121 not inconsistent with the provisions of this chapter, and which may be appropriately applied to the taxes, persons, circumstances and situations involved in this chapter, including without prejudice to the generality of the foregoing, sections 121-25, 121-32, 121-33, and 121-35 to 121-50 inclusive, shall be applicable to the taxes imposed by this chapter, and to the assessment and collection thereof. Any tax refund payable under section 121-44, hereby made applicable to the taxes imposed by this chapter, shall be made out of current tax collections under this chapter or chapter 121, whichever are available therefor.

**Sec. 127-7. Disposition of funds.** All taxes collected under the provisions of this chapter shall be territorial realizations."

(b) **Section 178-38** of the Revised Laws of Hawaii 1955 is hereby amended by deleting the first sentence thereof.

**SECTION 11.** Chapter 181 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) **Section 181-312** is amended by changing the period at the end of the first sentence to a comma and adding the following after the comma: "together with such other information as may be required by the commissioner in order to determine the taxability of premiums."

(b) **Section 181-313**, subsection (a), is amended by deleting the first three lines and part of the fourth, ending with the words "the gross premiums received", and inserting in lieu thereof the following:

"Each authorized insurer, except life insurers and ocean marine insurers, shall pay to the treasurer, through the commissioner, in the case of domestic insurers a tax of two and one-quarter per cent, and in the case of other insurers a tax of three and one-quarter per cent, on the gross premiums received".

(c) **Section 181-313**, subsection (a), is further amended by deleting the word "company" which appears at the end of the subsection and inserting in lieu thereof the word "insurer".

(d) **Section 181-313**, subsection (a) is further amended by adding thereto the following paragraph:

"All premiums written, procured or received in the Territory

shall be presumed to have been from risks or property resident, situated, or located within the Territory. This presumption may be rebutted as to any premium: (a) by showing that it has been properly allocated or apportioned and reported as a taxable premium of another state or other appropriate taxing authority; (b) by facts as to the residence, situation or location of the risks or property, conclusively showing the non-taxability of the premium."

(e) **Section 181-313**, subsection (b) is amended by deleting the first two lines and part of the third, ending with the words "from all risks resident" and inserting in lieu thereof the following:

"Each life insurer shall pay to the treasurer, through the commissioner, in the case of domestic insurers a tax of one and one-half per cent, and in the case of other insurers a tax of two and one-half per cent, on the gross premiums received from all risks resident".

(f) **Section 181-313**, subsection (b), is further amended by deleting the word "company" which appears at the end of the subsection and inserting in lieu thereof the word "insurer".

(g) **Section 181-313**, subsection (b), is further amended by adding thereto the following paragraph:

"The tax also shall apply to premiums for insurance written on individuals residing outside the Territory unless the direct writing insurer shall show the payment of a comparable tax to another appropriate taxing authority. Such showing may be required as to any premium written, procured or received in the Territory."

(h) **Section 181-313**, subsection (c), is amended by deleting the first sentence and inserting in lieu thereof the following:

"Each insurer shall, with respect to all ocean marine insurance contracts written within the Territory, during the year ending on the preceding thirty-first day of December, pay to the treasurer through the commissioner a tax of three-quarters of one per cent on its gross underwriting profit."

(i) **Section 181-313** is further amended by adding, between subsections (c) and (d), a new subsection to be designated "(d)" and to read as follows:

"(d) No return premium shall be deductible unless the original gross premium, or an adjustment thereof, in an amount equal to or in excess of the return premium, shall have been concurrently or previously reported as taxable under this section or a prior similar law of the Territory."

(j) The present subsection (d) of section 181-313 is redesignated "(e)", and the present subsection "(e)", which was added by Act 226 of the Session Laws of 1953, is deleted.

(k) **Section 181-315** is amended by deleting therefrom the words "except taxes on real property" and inserting in lieu thereof the following:

"except as expressly otherwise provided, and excepting also taxes

on real property, and taxes on the purchase, use or ownership of tangible personal property. Nothing herein shall be deemed to exempt insurers from liability for withholding taxes payable by their employees and paying the same to the proper collection officers, or from keeping such records, and making such returns and reports, as may be required in the case of other persons enjoying tax exemption."

(l) Chapter 181 is further amended by adding thereto a new section 181-316 to read as follows:

**"Sec. 181-316. Reports to tax commissioner.** The insurance commissioner shall promptly report to the tax commissioner all amounts of taxes collected under sections 181-312 through 181-315 and section 181-333 and all amounts of refunds of such taxes made under section 181-314."

(m) **Section 181-333**, subsection (a), is amended so that the first sentence shall read as follows:

"On or before the fifteenth day of April of each year each surplus line broker shall pay to the treasurer of the Territory, through the commissioner, a tax on premiums."

**SECTION 12.** **Section 185-19** of chapter 185, Revised Laws of Hawaii 1955, is hereby amended by deleting from the fifth line the word "except" and inserting in lieu thereof "exempt".

**SECTION 13.** Chapter 116 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) There is added thereto a new section 116-2.1 to read as follows:

**"Sec. 116-2.1. Grounds of appeal, real property taxes.** In the case of a real property tax appeal, no taxpayer shall be deemed aggrieved by an assessment, nor shall an assessment be lowered or an exemption allowed, unless there is shown (1) assessment of the property in excess of its one hundred per cent fair market value, or (2) lack of uniformity or inequality, brought about by illegality of the methods used or error in the application of the methods to the property involved, or (3) denial of an exemption to which the taxpayer is entitled and for which he has qualified, or (4) illegality, on any ground arising under the Constitution or laws of the United States or the laws of the Territory (in addition to the ground of illegality of the methods used, mentioned in clause (2) )."

(b) **Section 116-3** is amended as follows:

(1) The word "three" appearing in the third line thereof is changed to "five".

(2) The fourth sentence is amended by inserting after the words "December 31, 1935" and the comma, "and of the two members to take office as of January 1, 1958, one for the term expiring December 31, 1959, and one for a term expiring December 31, 1960,".

(c) **Section 116-4** is amended to read as follows:

**"Sec. 116-4. Boards of reviews; duties, powers, procedure before.** (a) The board of review for each division shall hear informally all disputes between the assessor and any taxpayer in

all cases in which appeals have been duly taken and the fact that a notice of appeal has been duly filed by a taxpayer shall be conclusive evidence of the existence of a dispute; **provided**, that this provision shall not be construed to permit a taxpayer to dispute an assessment to the extent that it is in accordance with his return.

(b) Each board shall hold public meetings at some central location in its taxation division, commencing not later than April 20 of each year and shall hear, as speedily as possible, all appeals presented for each year. Each board shall have the power and authority to decide all questions of fact and all questions of law, excepting questions involving the Constitution or laws of the United States, necessary to the determination of the objections raised by the taxpayer in his notice of appeal, **provided**, that no board shall have power to determine or declare an assessment illegal or void. Without prejudice to the generality of the foregoing, each board shall have power to allow or disallow exemptions pursuant to law whether or not previously allowed or disallowed by the assessor and to increase or lower any assessment.

(c) The board shall base its decision on the evidence before it, and, as provided in section 115-25, the assessment made by the assessor shall be deemed *prima facie* correct. Assessments for the same year upon other similar property situated in the Territory shall be received in evidence upon the hearing. In increasing or lowering any real property assessment the board shall be governed by the provisions of chapter 128 and section 116-2.1. The board shall file with the assessor concerned its decision in writing on each appeal decided by it, and a certified copy thereof shall be furnished by the assessor forthwith to the taxpayer concerned by delivery thereof to him, or by mailing the copy addressed to his last known place of residence.

(d) Upon completion of its review of the property tax appeals for the current year, the board shall compile and submit to the governor, and shall file with the assessor for the use of the public a copy of, a report covering such features of its work as, in the opinion of the board, will be useful in attaining the objectives set forth in chapter 128. In this report the board shall additionally note instances in which, in the opinion of the board, the assessor, in the application of the methods selected by him, erred as to a particular property or particular properties not brought before the board by any appeal, whether such error is deemed to have been by way of underassessment or overassessment. Before commencing this phase of its work the board shall publish, during the first week of September, a notice specifying a period of at least ten days within which complaints may be filed by any taxpayer. Each complaint shall be in writing, shall identify the particular property involved, shall state the valuation claimed by the taxpayer and the grounds of objection to the assessment, and shall be filed with the assessor who shall transmit the same to the board. Not earlier than one week after the close of the period allowed for filing complaints the board shall hear the same, after first giving reason-

able notice of the hearing to all interested taxpayers and the assessor. Like notice and hearing shall be given in order for the board to include in its report any other property not brought before it by an appeal. The board may proceed by districts designated by their tax map designation, and may from time to time publish the notice above provided for as the work proceeds by districts.

(e) The assessor, in the making of assessments for the succeeding year, shall give due consideration to the report of the board made pursuant to subsection (d).

(f) Each board and each member thereof in addition to all other powers shall also have the power to subpoena witnesses, administer oaths, examine books and records and hear and take evidence in relation to any subject pending before the board. The circuit courts shall have the power, upon request of the boards, to enforce by proper proceedings the attendance of witnesses and the giving of testimony by them, and the production of books, records and papers at the hearings of the boards."

(d) **Section 116-10** is amended in the following respects:

(1) By deleting from the first sentence the words "The hearing before the tax appeal court shall be a hearing de novo, and each", and by inserting in lieu of the deleted words the following:

"The hearing before the tax appeal court shall be a hearing de novo. Irrespective of which party prevails in the board of review the assessment as made by the assessor, or if increased by the board the assessment as so increased, shall be deemed prima facie correct. Each".

(2) By inserting a new paragraph to follow the first paragraph and to read as follows:

"The jurisdiction of the tax appeal court is limited to the amount of valuation or taxes, as the case may be, in dispute as shown on the one hand by the amount claimed by the taxpayer and on the other hand by the amount of the assessment, or if increased by the board the assessment as so increased."

**SECTION 14.** Chapter 128 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(a) Section 128-2 is amended to read as follows:

**"Sec. 128-2. Tax base and rate.** Except as exempted or otherwise taxed, all real property in each county shall be subject each year to a tax upon its fair market value determined in the manner provided by law, at such rate as shall be determined in the manner provided in section 129-2. However, the tax commissioner may use as the tax base a percentage of fair market value; if he does so he shall certify to the board of supervisors the percentage so used at the time he furnishes the board the calculations as to the tax base pursuant to section 129-2 (e), and if he does not do so he shall certify to the board that he has used one hundred per cent of fair market value as the tax base. Both as to the calculations as to the tax base and also as to the percentage of fair market value used as the tax base, the commissioner's certificate to the board shall be conclusive upon the county and further shall be con-

clusive insofar as the validity of any tax rate is concerned. Whether the commissioner uses as the tax base one hundred per cent of fair market value or some other per cent of fair market value, no taxpayer shall be deemed aggrieved by an assessment, nor shall an assessment be lowered, except upon a ground stated in section 116-2.1."

(b) Section 128-8 is amended to read as follows:

**"Sec. 128-8. Maps.** The commissioner shall provide, for each taxation division and district, maps drawn to appropriate scale, showing all parcels, blocks, lots or other divisions of land based upon ownership, and their areas or dimensions, numbered or otherwise designated in a systematic manner for convenience of identification, valuation and assessment. Such maps, as far as possible, shall show the names of owners of each division of land, and shall be revised from time to time as ownerships change and as further divisions of parcels occur. The commissioner shall also maintain, as and when such information is available, maps showing present use, zoning and physical use capabilities of land within each taxation division for the guidance of assessors and the information of various tax review tribunals and the general public."

(c) Section 128-9 is amended to read as follows:

**"Sec. 128-9. Valuation; considerations in fixing.**

(a) The commissioner shall cause the fair market value of all taxable real property to be determined and annually assessed as provided by law.

(b) All property shall be valued by appropriate systematic methods so selected and applied as to obtain, as far as possible, uniform and equalized assessments throughout the Territory.

(c) So far as practicable, records shall be compiled and kept in each division which shall show the methods established, by or under the authority of the commissioner, for the determination of values.

(d) In determining values the land in each county shall be classified in accordance with its character, upon consideration of its highest and best use. A unit of quantity shall be established for each class.

(e) The commissioner shall select and require the use of mathematical tables or formulas based upon a suitable unit of quantity and designed to determine equitably the effect, upon the value, of street or highway frontages, depth from the street or highway, shape, street corners, and other physical elements the effect of which upon value the commissioner finds feasible to determine by means of tables or formulas. These tables or formulas shall be used for all areas where this can be done appropriately, and in any event as provided in the next paragraph.

Whenever land has been divided into lots or parcels which are used or suitable for use for residential, commercial or other urban or village purposes, each such lot or parcel shall be separately assessed, and the aforesaid mathematical tables or formulas shall

be used unless this is precluded by the shape of the lots or parcels.

(f) In determining the value of land, consideration shall be given to selling prices and income (including, where available, such data relating to the property being assessed and similar data for comparable properties), productivity and nature of use (actual and potential), the advantage or disadvantage of factors such as location, accessibility, transportation facilities, size, shape, topography, quality of soil, water privileges, availability of water and its cost, easements and appurtenances, zoning, and further to the opinions of persons who may be considered to have special knowledge of land values, and all other influences, whether similar to those listed or not, which fairly and reasonably bear upon the question of value.

(g) All land shall be assessed in accordance with its highest and best use, regardless of whether the land concerned is put to such use or not.

(h) Buildings shall be valued each year upon the basis of the cost of replacement less depreciation, if any. Age, condition and utility or obsolescence shall be considered. The commissioner shall determine and require the use of average basic unit replacement cost factors."

(d) Chapter 128 is further amended by adding thereto a new section 128-9.1 to read as follows:

**"Sec. 128-9.1. Water tanks.** Any provision to the contrary notwithstanding, any tank or other storage receptacle required by any government agency to be constructed or installed on any taxable real property before water for home and farm use is supplied, and any other water tank, owned and used by a real property taxpayer for storing water solely for his own domestic use, shall be exempted in determining and assessing the value of such taxable real property."

(e) Section 128-10 is amended to read as follows:

**"Sec. 128-10. Non-taxable property.** For informative and statistical purposes, the commissioner shall cause the value of all non-taxable real property to be determined and assessed in the same manner provided in section 128-9."

(f) Section 128-23 of the Revised Laws of Hawaii 1955 is hereby amended to read as follows:

**"Sec. 128-23. Returns, made when; form; open to public.** Whenever the commissioner finds that the filing of returns under this paragraph is advisable for the making of assessments and so orders, the assessor shall give, to the taxpayers of his division during the month of December of the year such order is made, public notice (by publication thereof, in English, at least three times on different days during the month, in a newspaper of general circulation in such division, published in the English language) requiring such taxpayers to file with the assessor, on or before January 31 of the succeeding year, returns in the manner and form required by this section. After such publication of



notice, every person owning, or having possession, custody or control of, real property in such division, whether entitled to exemption or not, shall, during the month of January, file, upon forms prescribed by the commissioner and in the manner required by such forms, a return signed as provided in section 115-21 setting forth the description and location of all real property in the division belonging to such person or of which he had possession, custody or control on January 1, and setting forth the taxpayer's opinion of the fair market value thereof as of said date of January 1. It shall be sufficient to describe his property by setting forth the location and a brief description in sufficient detail to identify the property.

Whenever the commissioner shall, in his discretion, determine that there are not sufficient evidences of value to form the basis of a sound appraisal, for assessment purposes, of the value of the real property or real properties, or portions thereof, of any taxpayer he may, upon notice of not less than 30 days, require such taxpayer to file a return as described in the foregoing paragraph.

All returns made under this section shall be open to inspection by the public, and shall be admissible in evidence against the person making the return, in any territorial court in any action wherein the value of the real property, or portion thereof, covered by the return, may be in dispute.

Returns made under this section shall be taken into consideration by the tax assessor in making appraisals for assessment purposes; the opinion of any taxpayer as to fair market value shall not be binding upon the assessor, but no taxpayer shall be deemed to be aggrieved by any assessment made upon his property which is based upon the opinion of value set forth in his return unless he shows lack of uniformity or inequality as set forth in section 116-2.1.

Failure to file a return required under this section shall render the taxpayer liable for payment of an added tax as defined in and prescribed by subparagraph (b) (1) of section 115-43."

(g) Section 128-35 is amended to read as follows:

**"Sec. 128-35. Reassessments.** Any property assessed to a person or persons who did not have record title upon January 1 of the tax year for which such assessment is made, may be, and in any case where the attempted assessment of property is void or so defective as to create no real property tax lien on the property and the taxes have not been fully collected such property shall be, assessed as omitted property in the manner provided by section 128-34."

SECTION 15. (a) Chapter 129 of the Revised Laws of Hawaii 1955 is hereby amended in the following respects:

(1) Section 129-2 is amended to read as follows:

**"Sec. 129-2. Real property tax, determination of rate.** (a) The board of supervisors of each county shall determine the rate at which real property in that county shall be taxed for each calendar year under section 128-2, by resolution adopted in the manner

provided by law relating to resolutions involving the expenditure of public money; **provided**, however, that after introduction of such resolution and before final action on the same, a public hearing shall be held thereon after publication of notice thereof in a newspaper of general circulation in the county in which the rate is to be fixed, which notice shall be published not less than ten days before the hearing and shall set forth the tax rate under consideration by the board; and **provided further**, that upon the final reading, subsequent to the public hearing, of any resolution for the adoption of such rate, the board of supervisors may fix such rate at an amount differing from that originally proposed or under consideration when the notice of public hearing was published. The resolution fixing the tax rate in each county shall be adopted on or before May 20 of the year for which property tax revenues are to be raised.

(b) In determining the property tax rate each board shall take as the basis for calculation the aggregate value of taxable realty within the county as assessed for tax purposes as of April 20 of the current year and in all cases where appeals from the commissioner's assessment are then unsettled the values used in determining the aggregate shall be the value claimed by the taxpayer in each case, plus fifty per cent of the value in dispute.

(c) Such rate shall be expressed in terms of the tax per \$1,000 of assessed value of taxable real property in the county, but shall not exceed the following:

For the City and County of Honolulu .....	\$ 16.00
For the County of Maui .....	18.00
For the County of Hawaii .....	18.00
For the County of Kauai .....	18.00

However, these tax rate limits are exclusive of the amount fixed under Sec. 143-21, if any. These tax rate limits shall apply if the commissioner, pursuant to Sec. 128-2, certifies to the board that he has used as the tax base seventy per cent of fair market value. If the commissioner pursuant to Sec. 128-2 certifies to the board that he has used as the tax base a lesser per cent of fair market value then the limits hereinbefore stated shall be increased proportionately, and if the commissioner pursuant to Sec. 128-2 certifies to the board that he has used as the tax base a greater per cent of fair market value then the limits hereinbefore stated shall be decreased proportionately, so that in any event the applicable rate limit for each county shall be, to the rate limit for the county set forth above, as seventy per cent is to the per cent of fair market value which the commissioner has certified that he has used; **provided**, that the applicable rate limit for each county shall be computed to the nearest cent.

(d) Upon determination of the tax rate for the calendar year in each county, the board shall notify the tax commissioner of the rate, and the commissioner shall employ such rate in the levying of property taxes in that county under chapter 128.

(e) The commissioner shall, on or before April 30 of each year, furnish each board with a calculation, certified by him as being as nearly accurate as may be, of the aggregate value of taxable property within the county, as set forth in this section, plus such additional data relating to the property tax base in the county as the board may request of him in writing.

(f) Insofar as the validity of any tax rate is concerned, the provisions of subsections (a), (b), and (e) of this section, including provisions as to dates, shall be deemed directory and no mere informality in employing the procedures thereby prescribed for determining a property tax rate shall invalidate that rate. The provisions of subsections (c) and (d) shall be deemed mandatory."

(2) **Sections 129-3, 129-4, and 129-5** are repealed.

(3) Chapter 129 is further amended by inserting a new section 129-5.1 to read as follows:

**"Sec. 129-5.1. Territorial requirements.** (a) On or before January 31 of each calendar year the treasurer of the Territory shall compute and submit to the board of supervisors of each county the amounts which are payable to or retainable by the Territory for that county for the calendar year to meet interest charges for serial bonds, and the principal for all serial bonds maturing the following calendar year, which bonds have been issued by the Territory for county purposes (except bonds issued prior to January 1, 1945 for highway purposes).

(b) The board of trustees of the employees' retirement system of the Territory, on or before January 31 of each calendar year, shall submit to each county the amount estimated to be due from such county for the calendar year, pursuant to chapter 6, on account of the employees thereof who are members of the employees' retirement system.

(c) Any other information or estimates as to requirements for the calendar year, necessary to be given by any territorial officer to any board of supervisors in order that such requirements may be included in determining the tax rate for the county, shall be submitted by such officer to the board not later than January 31 of such year."

(4) **Section 129-6** is amended by deleting the first paragraph.

(5) **Section 129-7** is repealed.

(6) **Section 129-8** is amended to read as follows:

**"Sec. 129-8. Property taxes, disposition of proceeds.** All property taxes shall be paid into the territorial treasury each month within ten days after collection. Out of such taxes paid into the territorial treasury from each county, the treasurer shall retain from time to time in special accounts, and shall apply for the specified purposes, sufficient amounts to pay: (1) annual service charges (interest on serial bonds and principal of serial bonds maturing the following year) for territorial bonds issued for the purposes

of that county, except highway bonds issued prior to January 1, 1945; (2) the county's annual contributions to the territorial employees' retirement system; and (3) for any other purpose for which the territorial treasurer is required to retain county revenues. The treasurer shall pay the remaining balance to the treasurer of such county, as soon as possible after the property taxes have been paid into the territorial treasury, or after the disposition of any tax appeal, as the case may be. The county treasurer shall, unless allotments for the purposes hereinafter stated are made from the county's share of the general excise tax when received by the county, allot from such balance of property taxes, from time to time, sufficient for the annual service charges (interest on term and serial bonds, sinking fund for term bonds and principal of all serial bonds maturing the following year) for county bonds (except bonds issued prior to January 1, 1945, for highway purposes), and also for other amounts specified or required by law, and shall keep such allotments in special accounts for use for such purposes only.

If at any time there shall be insufficient moneys for the purposes of any special account, moneys in the general account of the Territory or county, as the case may be, may be used for such purposes, in which case the general account may later be reimbursed by transfers from such special account.

Except as hereinabove provided, the property taxes paid over to the county treasurer shall be a general fund revenue of the county, and shall be expended or allotted as authorized by the board of supervisors."

(7) **Section 129-9** is amended by deleting from the third paragraph the words "two and one-half per cent" and inserting in lieu thereof the following:

"two and one-half per cent or more,"

(b) **Section 143-21**, subsection (c) Revised Laws of Hawaii 1955, is hereby amended by deleting from the second sentence of said subsection (c) all that follows the comma after the word "county" in the twelfth line of the subsection, by deleting the last sentence of the subsection, and by inserting in lieu thereof the following:

"and may include necessary amounts therefor in determining the real property tax rate for such county, and for this purpose the tax rate limit provided by section 129-2 may be exceeded by not more than \$2 per \$1,000 of assessed value of taxable real property in the county for the year. The amount which, pursuant to this subsection, is included in determining the real property tax rate for such county, shall be paid into the redevelopment fund of the county for expenditure by the agency for the purposes of this part."

**SECTION 16.** This Act shall not be construed as affecting in any manner, to the detriment of the Territory, any taxes, interest, fines,

penalties, forfeitures or other liabilities, or obligations, existing, due or incurred prior to the taking effect of this Act, nor as affecting the liability of any person to prosecution for any offense committed prior to the taking effect of this Act under any statutes hereby amended, repealed or superseded; all such taxes, interest, fines, penalties, forfeitures, liabilities, obligations, misdemeanors and other offenses may be assessed, enforced, collected, prosecuted or punished, as the case may be, in the same manner, to the same extent and subject to the same conditions as if this Act had not been enacted.

**SECTION 17. Severability.** If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, and the application of such provisions to other persons or circumstances shall not be affected thereby. However, as to the amendments made by section 3, subsection (e) paragraph (2), and section 3, subsection (f), it is the intention of the legislature that if for any reason it should be found that subsection (f) provides an invalid measure of tax upon a manufacturer who ships or transports his products out of the Territory, or sells the same for delivery outside of the Territory, for the privilege of manufacturing products in the Territory, then in that event none of the cited amendments (section 3, subsection (e), paragraph (2), and section 3, subsection (f) ) shall take effect.

**SECTION 18.** (a) The repeal of chapter 120 of the Revised Laws of Hawaii 1955 shall take effect in respect of dividends paid or received on or after January 1, 1958, and said chapter 120, notwithstanding its repeal by this Act, shall apply to all dividends paid or received prior to January 1, 1958, as more fully provided in section 16 of this Act.

(b) The repeal of chapter 120 of the Revised Laws of Hawaii 1955 shall take effect in respect of compensation paid for or attributable to personal services performed on or after January 1, 1958, or which is subject to withholding as provided in section 19 (f), and said chapter 120, notwithstanding its repeal by this Act, shall apply to all compensation, except when subject to withholding as provided in section 19 (f), paid for or attributable to personal services performed prior to January 1, 1958, as more fully provided in section 16 of this Act.

(c) All taxes withheld or paid under chapter 120 with respect to compensation or dividends shall, for the appropriate taxable year, be credited, to the extent of 75 per cent thereof, against income taxes incurred under chapter 121 of the Revised Laws of Hawaii 1955, insofar as such compensation or dividends are returnable and returned under chapter 121 as gross income subject to tax; the amount of any excess credit shall not be refunded.

(d) Refunds of taxes allowable under chapter 120 of the Revised Laws of Hawaii 1955, as it read prior to its repeal, may be made out of the income tax reserve fund as heretofore or hereafter constituted if the application for such refund is filed within five years after the amount to be refunded was paid to the Territory.

**SECTION 19.** (a) The amendments of chapter 121 of the Revised Laws of Hawaii 1955, made by section 2, shall apply with respect to taxable years beginning on or after January 1, 1958, and with respect to such taxable years chapter 121 shall stand amended as amended by

this Act. In the case of any taxpayer making a return for a fiscal or other taxable year which includes part of the calendar year 1957 and part of the calendar year 1958, there shall be two returns made, the same as in a case of change in accounting period. The return made for the fractional part of the calendar year 1957 shall be governed by the provisions of chapter 121 as it read prior to the amendments made by this Act, to be known as the income tax law of 1932, and the return made for the fractional part of the calendar year 1958 shall be governed by the provisions of chapter 121 as amended by this Act, to be known as the income tax law of 1957. **Provided**, that any taxpayer subject to the provisions of the foregoing sentence may elect in lieu thereof to file one return for the fiscal or other taxable year which includes part of the calendar year 1957 and part of the calendar year 1958, which return shall be governed by the income tax law of 1957.

(b) It is **further provided** that:

(1) The amendment of chapter 121 to exempt building and loan associations from the tax imposed by that chapter shall apply to taxable years beginning or including January 1, 1957.

(2) Whenever, pursuant to the amendments made by this Act, income is required to be returned in a taxable year other than that prescribed by the income tax law of 1932, and there is income which has not been taxed and which, by reason of such amendments, would escape taxation, such income notwithstanding such amendments shall be returned for taxation and taxed in the first taxable year to which the income tax law of 1957 applies.

(3) Any taxpayer having a net loss computed under the income tax law of 1932 which could have been deducted in computing the income of the taxpayer for the succeeding taxable year had the succeeding taxable year been governed by the income tax law of 1932 may nevertheless enjoy the deduction even though the succeeding taxable year is governed by the income tax law of 1957.

(c) For all taxable years beginning in the calendar year 1957 and theretofore, the tax levied under chapter 121 of the Revised Laws of Hawaii 1955 for the taxable year shall be returned and paid at the times provided by chapter 121 as it read prior to the amendments made by this Act, except as otherwise provided by subsections (d) and (e).

(d) In the case of a corporation, the tax for the taxable year which begins in the calendar year 1957 shall be returned and paid as provided in subsection (c) except that in the event of payment in installments the first installment shall be one-third, the second installment one-third, the third installment one-sixth, and the fourth installment one-sixth, of the tax for the taxable year.

(e) As to any return made for, and including only, a fractional part of the calendar year 1958, such return shall be filed and the taxes paid thereon as provided in subsections (c) and (d), or on April 20, 1959, whichever is the later.

(f) The provisions of chapter 121 of the Revised Laws of Hawaii 1955, as amended by this Act, concerning the withholding of income taxes, and the provisions as to the return thereof and all other provisions

related thereto, shall become effective January 1, 1958, as to compensation or wages paid for or attributable to services performed on or after that date, or services performed in a withholding period ending January 1, 1958, or thereafter.

SECTION 20. Sections 3, 4 and 5, amending chapters 117, 118, and 119 of the Revised Laws of Hawaii 1955, shall take effect as follows:

(a) All changes in rates of tax (whether due to amendments of the rates themselves or due to the amendment as to canneries), and the provisions of section 117-14.6, except subsection (c), also the amendments referring to section 117-14.6, shall take effect July 1, 1957 and shall apply to taxes accruing on and after said date; **provided**, however, that the rate of tax levied upon any person engaging or continuing within this Territory in the business of contracting, or who by reason of his business as a contractor is taxed under section 117-14.6, measured by gross income received on account of uncompleted contracts entered into prior to the date of approval of this Act, shall be two and one-half per cent.

(b) The changes in the license fees, chapter 117, Revised Laws of Hawaii 1955, and the provisions of section 117-14.6 (c) as to the notation on the license there required, shall take effect commencing January 1, 1958.

(c) Section 3, subsection (f), shall take effect July 1, 1957 and shall apply to taxes accruing on and after said date.

(d) Section 3, subsections (a) and (n), shall not, except upon the election of the taxpayer, apply to any work done under a building permit issued prior to May 1, 1957, or to any gross income derived from a sale or other disposition actually and finally agreed upon prior to May 1, 1957, but the burden shall be upon the person claiming the benefit of this subsection to show his compliance therewith.

(e) Section 3, subsection (z) shall take effect at the end of the calendar year 1957, it being the intention of this subsection and section 24 that chapter 127 shall apply to building and loan associations as of January 1, 1958, measured by income of the year preceding January 1, 1958, or in case the fiscal year basis applies, of the year in which January 1, 1958, occurs.

SECTION 21. Section 6, amending chapter 122 of the Revised Laws of Hawaii 1955, shall apply only in cases of the decedents dying after the date of approval of this Act, and chapter 122 of the Revised Laws of Hawaii 1955, as it stood prior to the amendments made by this Act, shall apply in cases of decedents dying on or prior to the date of approval of this Act.

SECTION 22. Sections 7 and 8, amending chapters 124 and 125 of the Revised Laws of Hawaii 1955, shall take effect on July 1, 1957, and shall apply to taxes accruing on and after said date, except that the changes in the license fees under said chapters shall take effect commencing with the calendar year 1958.

SECTION 23. Section 9, amending chapter 126 of the Revised Laws of Hawaii 1955, except subsections (a) and (b) thereof, shall take effect as of January 1, 1958 in respect of taxes measured by income of the calendar year 1957.

SECTION 24. (a) Section 10, amending chapter 127 of the Revised Laws of Hawaii 1955, shall apply as follows: The first franchise tax date governed by the amended chapter 127 shall be January 1, 1958. Chapter 127 of the Revised Laws of Hawaii 1955 as it read prior to the amendments made by this Act shall apply to taxes due as of January 1, 1957 and theretofore.

(b) All references to chapter 121 of the Revised Laws of Hawaii 1955, made in chapter 127 of the Revised Laws of Hawaii 1955 as amended by this Act, signify the provisions thereof as amended and applicable to the tax imposed by said chapter in respect of income derived or received on and after the franchise tax date prescribed by chapter 127; for example, for the computation of the franchise tax imposed by chapter 127 as of January 1, 1958, references to chapter 121 signify the provisions thereof as amended and applicable to income derived or received on or after January 1, 1958 in the case of a taxpayer whose taxable year under chapter 121 commences January 1, 1958.

(c) Notwithstanding any provision of the Hawaii Rules of Civil Procedure the tax commissioner of the Territory is hereby authorized to bring an action or actions for declaratory judgment to determine the application of the term "financial corporation" as defined by chapter 127 of the Revised Laws of Hawaii 1955, as amended by this Act. Nothing contained in the amendments made by this Act shall be deemed an expression by the legislature as to the meaning of the term "financial corporation", it being the intention of the legislature that this term shall have the meaning given it by section 5219 of the Revised Statutes of the United States, as amended (12 U.S.C. 548), or other similar law.

SECTION 25. Section 11, amending chapter 181 of the Revised Laws of Hawaii 1955, shall take effect in respect of all taxes measured by gross premiums or gross underwriting profit of the last six months of 1957 and thereafter. The insurer, in respect of the calendar year 1957, shall make two statements, one covering the first six months of the calendar year and showing the tax on the gross premiums, or gross underwriting profit, as the case may be, during such period, determined in the manner and at the rates provided by chapter 181 as it read prior to the amendments made by this Act, and the other covering the last six months of the calendar year and showing the tax on the gross premiums or gross underwriting profit, as the case may be, during such period, determined in the manner and at the rates provided by chapter 181 as amended by this Act. Alternatively the insurer at its option may render one statement for the calendar year 1957 showing the tax base for the entire year determined in the manner provided by chapter 181 as amended by this Act, and may compute the tax by imputing to each half of the calendar year 1957 one-half of the tax base so determined.

SECTION 26. Section 13, subsection (b), concerning the composition of the board of review shall take effect as of January 1, 1958.

SECTION 27. (a) The amendments of chapter 128, made by section 14 of this Act, shall apply commencing with the calendar year 1958.

(b) The amendments of chapter 129 made by section 15 of this Act shall take effect as of January 1, 1957, **provided**, that for the year 1957: (1) the date for payment of the first installment of real property taxes



shall be the fiftieth day after the approval of this Act; and (2) the resolution fixing the tax rate in each county shall be adopted within ten days after the approval of this Act; and (3) only three days' notice of the public hearing relating to the determination of the rate need be given.

SECTION 28. As to any fee, charge, or price fixed or limited by law but subject to the control of the legislature, if the tax imposed by chapter 117 of the Revised Laws of Hawaii 1955 applies and the applicable tax rate is three and one-half per cent, the amount so fixed or limited is hereby increased by one per cent.

SECTION 29. Any reference in any chapter of Title 16 of the Revised Laws of Hawaii 1955 to chapter 121, or any section, subsection or paragraph thereof, shall be and hereby is amended so as to refer to chapter 121, or the appropriate section, subsection or paragraph thereof, as amended by this Act, and in particular, all references to section 121-35 are amended to refer to section 121-46.

SECTION 30. Nothing in this Act shall be deemed to repeal or supersede Act 241, Session Laws of Hawaii 1957.

SECTION 31. There is hereby appropriated from the general revenues of the Territory the sum of \$415,000, to be expended by the tax commissioner for the administration of this Act. This appropriation is in addition to all other appropriations made to the tax commissioner.

SECTION 32. Subject to the foregoing, this Act shall take effect upon its approval.

(Vetoed by Governor June 7, 1957.)

(Veto overridden June 7, 1957 by Legislature.) **S.B. 2, Act 1.**

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## ACT 2

An Act to Appropriate Money for the Expenses of the Legislature of the Territory of Hawaii.

*Be it Enacted by the Legislature of the Territory of Hawaii:*

SECTION 1. There is hereby appropriated from the general fund of the Territory of Hawaii the sum of \$43,000 or so much thereof as may be necessary, for the purposes of defraying the expenses of the House of Representatives of the Twenty-Ninth Legislature of the Territory of Hawaii, Special Session of 1957.

SECTION 2. Any unencumbered balance of the appropriation provided for in section 1 remaining at the close of the Special Session shall revert to the general fund of the Territory.

SECTION 3. There is hereby appropriated from the general fund of the Territory of Hawaii the sum of \$25,000 or so much thereof as may be necessary, for the purpose of defraying the expenses of the Senate of the Twenty-Ninth Legislature of the Territory of Hawaii, Special Session of 1957.

SECTION 4. Any unencumbered balance of the appropriation pro-

vided for in section 3 remaining at the close of the Special Session shall revert to the general fund of the Territory.

SECTION 5. The auditor of the Territory shall, prior to the convening of the Thirtieth Legislature, audit the accounts of the House of Representatives and the Senate of the Twenty-Ninth Legislature of the Territory of Hawaii, Special Session of 1957. Immediately upon the completion of the audit a full report thereof shall be presented to the House of Representatives and the Senate of the Thirtieth Legislature of the Territory of Hawaii.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 8, 1957.) **H.B. 1, Act 2.**

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